

**ESHB 1002 - S AMD 418**

By Senators West, Brown, Fraser, Regala, Swecker

ADOPTED 04/17/2003

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the protection  
4 of the environment is of utmost importance to ensuring the health and  
5 safety of the citizens of the state of Washington. The legislature  
6 further finds that fish caught commercially and recreationally provide  
7 an important element in a healthy diet, and that the fish caught in  
8 Washington waters need to be protected from any sources that might  
9 impact the healthfulness of consuming such fish. The legislature  
10 further finds that species caught in our region are safe for citizens  
11 to eat.

12 Therefore, the legislature intends to take all measures necessary  
13 to ensure that fish caught within our state's waters continue to be  
14 safe from any degrading influences.

15 NEW SECTION. **Sec. 2.** The definitions in this section apply  
16 throughout this chapter unless the context clearly requires otherwise.

17 (1) "Automotive mercury switch" includes a convenience switch, such  
18 as a switch for a trunk or hood light, and a mercury switch in antilock  
19 brake systems.

20 (2) "Department" means the department of ecology.

21 (3) "Director" means the director of the department of ecology.

22 (4) "Health care facility" includes a hospital, nursing home,  
23 extended care facility, long-term care facility, clinical or medical  
24 laboratory, state or private health or mental institution, clinic,  
25 physician's office, or health maintenance organization.

26 (5) "Manufacturer" includes any person, firm, association,  
27 partnership, corporation, governmental entity, organization, or joint  
28 venture that produces a mercury-added product or an importer or  
29 domestic distributor of a mercury-added product produced in a foreign

1 country. In the case of a multicomponent product containing mercury,  
2 the manufacturer is the last manufacturer to produce or assemble the  
3 product. If the multicomponent product or mercury-added product is  
4 produced in a foreign country, the manufacturer is the first importer  
5 or domestic distributor.

6 (6) "Mercury-added button-cell battery" means a button-cell battery  
7 to which the manufacturer intentionally introduces mercury for the  
8 operation of the battery.

9 (7) "Mercury-added novelty" means a mercury-added product intended  
10 mainly for personal or household enjoyment or adornment. Mercury-added  
11 novelties include, but are not limited to, items intended for use as  
12 practical jokes, figurines, adornments, toys, games, cards, ornaments,  
13 yard statues and figures, candles, jewelry, holiday decorations, items  
14 of apparel, and other similar products. Mercury-added novelty does not  
15 include games, toys, or products that require a button-cell or lithium  
16 battery, liquid crystal display screens, or a lamp that contains  
17 mercury.

18 (8) "Mercury-added product" means a product, commodity, or  
19 chemical, or a product with a component that contains mercury or a  
20 mercury compound intentionally added to the product, commodity, or  
21 chemical in order to provide a specific characteristic, appearance, or  
22 quality, or to perform a specific function, or for any other reason.  
23 Mercury-added products include, but are not limited to, mercury  
24 thermometers, mercury thermostats, and mercury switches in motor  
25 vehicles.

26 (9) "Mercury manometer" means a mercury-added product that is used  
27 for measuring blood pressure.

28 (10) "Mercury thermometer" means a mercury-added product that is  
29 used for measuring temperature.

30 (11) "Retailer" means a retailer of a mercury-added product.

31 NEW SECTION. **Sec. 3.** (1) Effective January 1, 2004, a  
32 manufacturer, wholesaler, or retailer may not knowingly sell at retail  
33 a fluorescent lamp if the fluorescent lamp contains mercury and was  
34 manufactured after November 30, 2003, unless the fluorescent lamp is  
35 labeled in accordance with the guidelines listed under subsection (2)

1 of this section. Primary responsibility for affixing labels required  
2 under this section is on the manufacturer, and not on the wholesaler or  
3 retailer.

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

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

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

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

18 (4) The provisions of this section do not apply to products  
19 containing mercury-added lamps.

20 NEW SECTION. **Sec. 4.** The department of health must develop an  
21 educational plan for schools, local governments, businesses, and the  
22 public on the proper disposal methods for mercury and mercury-added  
23 products.

24 NEW SECTION. **Sec. 5.** A school may not purchase for use in a  
25 primary or secondary classroom bulk elemental mercury or chemical  
26 mercury compounds. By January 1, 2006, all primary and secondary  
27 schools in the state must remove and properly dispose of all bulk  
28 elemental mercury, chemical mercury, and bulk mercury compounds used as  
29 teaching aids in science classrooms, not including barometers.

30 NEW SECTION. **Sec. 6.** (1) Effective January 1, 2006, no person may  
31 sell, offer for sale, or distribute for sale or use in this state a  
32 mercury-added novelty. A manufacturer of mercury-added novelties must  
33 notify all retailers that sell the product about the provisions of this

1 section and how to properly dispose of any remaining mercury-added  
2 novelty inventory.

3 (2)(a) Effective January 1, 2006, no person may sell, offer for  
4 sale, or distribute for sale or use in this state a manometer used to  
5 measure blood pressure or a thermometer that contains mercury. This  
6 subsection (2)(a) does not apply to:

7 (i) An electronic thermometer with a button cell battery containing  
8 mercury;

9 (ii) A thermometer that contains mercury and that is used for food  
10 research and development or food processing, including meat, dairy  
11 products, and pet food processing;

12 (iii) A thermometer that contains mercury and that is a component  
13 of an animal agriculture climate control system or industrial  
14 measurement system or for veterinary medicine until such a time as the  
15 system is replaced or a nonmercury component for the system or  
16 application is available;

17 (iv) A thermometer or manometer that contains mercury that is used  
18 for calibration of other thermometers, manometers, apparatus, or  
19 equipment, unless a nonmercury calibration standard is approved for the  
20 application by the national institute of standards and technology;

21 (v) A thermometer that is provided by prescription. A manufacturer  
22 of a mercury thermometer shall supply clear instructions on the careful  
23 handling of the thermometer to avoid breakage and proper cleanup should  
24 a breakage occur; or

25 (vi) A manometer or thermometer sold or distributed to a hospital,  
26 or a health care facility controlled by a hospital, if the hospital has  
27 adopted a plan for mercury reduction consistent with the goals of the  
28 mercury chemical action plan developed by the department under section  
29 302, chapter 371, Laws of 2002.

30 (b) A manufacturer of thermometers that contain mercury must notify  
31 all retailers that sell the product about the provisions of this  
32 section and how to properly dispose of any remaining thermometer  
33 inventory.

34 (3) Effective January 1, 2006, no person may sell, install, or  
35 reinstall a commercial or residential thermostat that contains mercury  
36 unless the manufacturer of the thermostat conducts or participates in  
37 a thermostat recovery or recycling program designed to assist

1 contractors in the proper disposal of thermostats that contain mercury  
2 in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource  
3 conservation and recovery act.

4 (4) No person may sell, offer for sale, or distribute for sale or  
5 use in this state a motor vehicle manufactured after January 1, 2006,  
6 if the motor vehicle contains an automotive mercury switch.

7 (5) Nothing in this section restricts the ability of a  
8 manufacturer, importer, or domestic distributor from transporting  
9 products through the state, or storing products in the state for later  
10 distribution outside the state.

11 NEW SECTION. **Sec. 7.** (1) The department of general administration  
12 must, by January 1, 2005, revise its rules, policies, and guidelines to  
13 implement the purpose of this chapter.

14 (2) The department of general administration must give priority and  
15 preference to the purchase of equipment, supplies, and other products  
16 that contain no mercury-added compounds or components, unless: (a)  
17 There is no economically feasible nonmercury-added alternative that  
18 performs a similar function; or (b) the product containing mercury is  
19 designed to reduce electricity consumption by at least forty percent  
20 and there is no nonmercury or lower mercury alternative available that  
21 saves the same or a greater amount of electricity as the exempted  
22 product. In circumstances where a nonmercury-added product is not  
23 available, preference must be given to the purchase of products that  
24 contain the least amount of mercury added to the product necessary for  
25 the required performance.

26 NEW SECTION. **Sec. 8.** The department is authorized to participate  
27 in a regional or multistate clearinghouse to assist in carrying out any  
28 of the requirements of this chapter. A clearinghouse may also be used  
29 for examining notification and label requirements, developing education  
30 and outreach activities, and maintaining a list of all mercury-added  
31 products.

32 NEW SECTION. **Sec. 9.** A violation of this chapter is punishable by  
33 a civil penalty not to exceed one thousand dollars for each violation  
34 in the case of a first violation. Repeat violators are liable for a

1 civil penalty not to exceed five thousand dollars for each repeat  
2 violation. Penalties collected under this section must be deposited in  
3 the state toxics control account created in RCW 70.105D.070.

4 NEW SECTION. **Sec. 10.** Nothing in this chapter applies to  
5 crematories as that term is defined in RCW 68.04.070.

6 NEW SECTION. **Sec. 11.** Any fiscal impact on the department or the  
7 department of health that results from the implementation of this  
8 chapter must be paid for out of funds that are appropriated by the  
9 legislature from the state toxics control account for the  
10 implementation of the department's persistent bioaccumulative toxic  
11 chemical strategy.

12 NEW SECTION. **Sec. 12.** Nothing in this chapter applies to  
13 prescription drugs regulated by the food and drug administration under  
14 the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.),  
15 to biological products regulated by the food and drug administration  
16 under the public health service act (42 U.S.C. Sec. 262 et seq.), or to  
17 any substance that may be lawfully sold over-the-counter without a  
18 prescription under the federal food, drug, and cosmetic act (21 U.S.C.  
19 Sec. 301 et seq.).

20 NEW SECTION. **Sec. 13.** Nothing in section 3, 6 (1), (3), or (4),  
21 or 7 of this act applies to medical equipment or reagents used in  
22 medical or research tests regulated by the food and drug administration  
23 under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et  
24 seq.).

25 NEW SECTION. **Sec. 14.** The department of ecology shall petition  
26 the United States environmental protection agency requesting  
27 development of a national mercury repository site.

28 NEW SECTION. **Sec. 15.** Sections 1 through 13 of this act  
29 constitute a new chapter in Title 70 RCW."

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1        On page 1, line 1 of the title, after "education;" strike the  
2 remainder of the title and insert "adding a new chapter to Title 70  
3 RCW; creating a new section; and prescribing penalties."

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