

HOUSE BILL REPORT

HB 1731

As Reported by House Committee On:

Natural Resources, Ecology & Parks
Appropriations

Title: An act relating to the removal of mercury-added components in motor vehicles.

Brief Description: Requiring the removal of mercury components from end-of-life motor vehicles.

Sponsors: Representatives Hunt, Campbell, Wood, Nixon, Clibborn, Jarrett, McDermott, Blake, Williams, Pettigrew, Dickerson, Dunshee, Lovick, Upthegrove, Moeller, Darneille, Kenney, McCoy, Chase, Ormsby, Simpson, Miloscia and Schual-Berke.

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 2/15/05, 2/28/05 [DPS];

Appropriations: 1/31/06, 2/2/06 [DP2S(w/o sub NREP)].

Brief Summary of Second Substitute Bill

- Requires motor vehicle manufacturers to submit, and have approved by the state, a plan for the recovery of mercury-added components from motor vehicles.
- Makes unlawful the shredding or crushing of a vehicle that contains mercury-added components.
- Makes unlawful the false representation that the mercury-added components have been removed from a motor.
- Defines the cost that manufacturers will be responsible for reimbursing the Department and automobile recyclers at \$4 per mercury-added component.
- References a memorandum of understanding (MOU), dated Jan 10, 2006, between Department of Ecology (Department), recyclers, and manufacturers.
- Requires manufacturers to provide proof to the Department that they are maintaining a minimum of \$24 million of pollution liability insurance coverage for the collection, transportation, recycling, or disposal of the mercury from the mercury switches.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Blake, Dickerson, Eickmeyer, Hunt and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; and Orcutt.

Staff: Jason Callahan (786-7117).

Background:

Certain products with mercury-added components are now, or will be soon, prohibited from sale within the state. These include florescent lamps, novelties, thermostats, and certain types of medical equipment. New motor vehicles with an automotive mercury switch will be prohibited from sale in Washington on January 1, 2006.

Summary of Substitute Bill:

Prohibitions

It is unlawful for a vehicle to be shredded or crushed if all mercury-added components that can be removed have not been removed. Automobile crushers and shredders may rely on reasonable evidence provided by motor vehicle recyclers that all mercury-added products have been removed. Vehicles imported from out-of-state may only be shredded if the recycler can ensure that the out-of-state supplier has removed all mercury-added components.

It is also unlawful for a person to falsely represent that mercury-added components have been removed from a vehicle.

Role of manufacturers in the recovery of mercury-added components

Every vehicle manufacturer is responsible for ensuring the recovery of at least 90 percent of the mercury-added components from cars that are at the end of their useful life. To accomplish this, each manufacturer is required to develop and implement a plan for the removal, collection, and recovery of mercury-added components from vehicles within 90 days of the legislation's effective date.

There are certain minimum elements that are required in the recovery plan. These include:

- education and financing details;
- information about which models and years contain mercury;
- descriptions of performance measures and processes to document success;
- a system to mark vehicles that are to be shredded or crushed; and
- a plan to properly dispose of removed components.

In addition to the plan, the manufacturer must submit annual reports to the Department of Ecology (Department). These reports must contain documentation of the capture rate for the

mercury-added components, how the mercury was managed, and how the capture rate will be approved.

Manufacturers are responsible for the costs of recovering mercury-added components, including labor, shipping, training, and costs to the state for administration. In addition, manufacturers must hold harmless the recyclers for any liability that arises from the release of mercury from components that have been returned for recovery.

Role of the state in the recovery of mercury-added components

The director of the Department is required to review and approve all plans submitted from motor vehicle manufacturers. Upon the receipt of a plan, the director has 60 days to review the plan for compliance with all requirements. If the plan meets these requirements, then its implementation must begin within 90 days of the director's approval. If the plan is rejected by the director, then the manufacturer must submit a new plan within 30 days of notification. If a manufacturer is not able to submit an approved plan within 240 days of the effective date of the legislation, then the director must consider the manufacturer to be in violation of the law. This violation would trigger the enforcement provisions established in the legislation.

All approved plans must be reviewed every three years.

Enforcement

Violations of this legislation are punishable by a civil penalty up to \$1,000 per violation per day. Money collected is directed towards the state toxics control account.

Substitute Bill Compared to Original Bill:

The substitute bill adds an effective date of July 1, 2006, and codifies the new sections into the existing chapter addressing mercury.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2006.

Testimony For: The Legislature took action on mercury two years ago, and this is the follow-up legislation. Mercury gets into the environment through automobile components, and is then persistent in the environment. Most car manufacturers have stopped using mercury, but some will not abandon the practice until 2006, and even then there will be old cars with the mercury switches in circulation for years to come.

Mercury in cars becomes a hazard for those in the business of crushing used cars. The mercury also can get into steel that is recycled from cars. The mercury-containing components should be removed prior to demolition. There is a cost to removing mercury parts, but that cost is less than the cost of cleaning up the pollution. It is unclear if there will

be public funding to help car crushers deal with mercury delivered to their businesses, and this bill would put that financial burden on the manufacturers that added the mercury, and not on the state or those in the demolition business.

Demolition businesses cannot afford to handle the mercury in cars. They are willing to do the work to remove the switches, but they need to know where the switches are and they need to be reimbursed. If the demolition industry can not stay viable, the state will have to figure out a way to deal with the large number of cars that reach their end of life each year.

The bill simply creates the expectation that the party responsible for adding the mercury will be the same party that is responsible for cleaning up the mercury. The bill allows the free market to deal with the mercury in the most efficient manner and ensures that companies that are responsible are not at a competitive disadvantage. Voluntary programs are not working, and the model reflected in the bill has worked in other states.

Testimony Against: There is no immediate threat that is being addressed by the bill. Mercury has not been used in most automobiles since 1993, so the issue of mercury component will only exist for a small period of time. Legislation of this scope is not needed, since the stakeholders and the Department can all enter into voluntary agreements to get to the same end. The solution should be business-to-business solution and not a governmental program. The bill is too onerous, and requires manufacturers to be responsible for goals that they can not meet. Manufacturers do not know how many mercury switches are in circulation, so they can not know when they have addressed set percentages of switches.

Persons Testifying: (In support) Bart Kale, Nuco-Steel; David Stitzhal, The Northwest Product Stewardship Council; Jim Jakubiak, Schnitzer Steel; Don Phelps, Agricultural Research Organizations on the Web; Darin Rice, Department of Ecology; Suellen Mele, Washington Citizens for Resource Conservation; Mo McBroom, Washington Public Interest Research Group; and Ken Armstrong.

(Opposed) Nancee Wildermuth, Alliance of Automobile Manufacturers; and Grant Nelson, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Natural Resources, Ecology & Parks. Signed by 17 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Schual-Berke and P. Sullivan.

Minority Report: Do not pass. Signed by 13 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant

Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Hinkle, Pearson, Priest, Talcott and Walsh.

Staff: Alicia Paatsch (786-7178).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Natural Resources, Ecology & Parks:

The second substitute bill defines the cost that manufactures will be responsible for reimbursing the Department of Ecology and the automobile recyclers at \$4 per switch. The second substitute also requires automobile manufacturers to provide proof of pollution liability insurance, establishes a sunset date for the act, and exempts automobile recyclers from the public disclosure of records regarding how many switches were removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except section 8, relating to financial, commercial, and proprietary information that is exempt from disclosure under this chapter, which takes effect July 1, 2006.

Testimony For: We support the removal of mercury from the scrap stream but when we receive scrap in it is in the form of shredded pieces and we cannot tell if it contains mercury or not. This bill is critical for us to remove mercury from cars or trucks that will be recycled. The bill results in a reduction of mercury air emission which is a significant health problem. The bill creates a better source of funding than using precious Model Toxics Control Act funds that could be used for other things. The new fees from manufacturers will fund the mercury removal program which is critical as only seven counties have agreed under the voluntary Memorandum of Understanding (MOU) to recycle mercury and this would include all counties and fund them, as mercury components in vehicles are in all counties.

Testimony Against: Last year we testified on HB 1731 and we wanted to be part of a voluntary public-private partnership to work on a memorandum of understanding between manufacturers, recyclers, and the Department of Ecology. As the manufacturers, we hired contractors to put buckets at auto recyclers to collect mercury components and we paid to properly dispose of it, we contracted with a pollution liability company to ensure that there is no liability to recyclers, and we agreed to pay a grant to the Department of Ecology to administer this effort. We don't think that there is a need for a bounty to dismantle mercury from vehicles. We worked for most of this last summer and fall with the Department of Ecology to set up the MOU's voluntary program and it is very offensive to be treated in this manner by the Department of Ecology. This says that Washington is not a good place to do business.

Persons Testifying: (In support) Brad Boswell, Nucor Steel; Mo McBroom, Washington Environmental Council; and Gary Smith, Independent Business Association.

(Opposed) Nancee Wildermuth, Alliance Automobile Manufacturers; and Cliff Webster, General Motors Corporation.

Persons Signed In To Testify But Not Testifying: None.