

SENATE BILL REPORT

SB 6502

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 08, 2008
Ways & Means, February 12, 2008

Title: An act relating to mercury reduction.

Brief Description: Reducing the release of mercury into the environment.

Sponsors: Senators Oemig, Rasmussen and Kline.

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/06/08, 2/08/08 [DPS-WM, DNP].

Ways & Means: 2/11/08, 2/12/08 [DP2S, DNP, w/oRec].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6502 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Rockefeller, Chair; Fraser, Hatfield, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Delvin, Holmquist and Morton.

Staff: Jan Odano (786-7486)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6502 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Hobbs, Keiser, Kohl-Welles, Oemig, Rasmussen, Regala, Rockefeller and Tom.

Minority Report: Do not pass.

Signed by Senator Hatfield and Hewitt.

Minority Report: That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Parlette, Roach and Schoesler.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Elise Greef (786-7708)

Background: Mercury enters the environment through mining, petroleum combustion, coal powered plants, municipal sewage plants, land-filling and incinerating certain consumer products. Mercury is deposited on land, air, and water, and eventually finds its way into the food chain and humans.

Mercury is a persistent, bioaccumulative toxin that can damage the central nervous system and cardiovascular system in humans. Fetuses, infants, and children exposed to mercury may have troubles with cognitive thinking, memory, attention, language, and fine motor and visual spatial skills. Adults who have been exposed to mercury may experience such symptoms as: tremors; mood swings; insomnia; muscle weakness; headaches; and decreased performance on tests of cognitive function.

In 2003 the Legislature passed the Mercury Education and Reduction Act. This legislation included:

- prohibiting the sale of fluorescent lights containing mercury unless the manufacturers provided labels stating the lights contain mercury and proper disposal methods. In addition, the legislation prohibited the sale and distribution of novelty items, manometers, thermometers, or thermostats with mercury added, and motor vehicles manufactured after 2006 containing an automotive mercury switch;
- requiring schools to remove and properly dispose of all bulk elemental mercury, chemical mercury, and bulk mercury compounds used as teaching aids in science class rooms;
- requiring the Department of General Administration to give preference and priority to the purchase of equipment and products that do not contain mercury unless there are no feasible alternatives; and
- prohibiting the vaccination with a mercury containing vaccine of a person who is pregnant or anyone under the age of three.

The Department of Ecology's (Ecology) Mercury Chemical Action Plan conclusions include that significant amount of mercury released into the state's environment is from disposal of common consumer products such as fluorescent light tubes, thermometers, and thermostats and that many Washington residents are not aware of products that contain mercury, and are likely to improperly dispose of mercury containing products.

Summary of Bill: The bill as referred to committee was not considered.

SUMMARY OF BILL (Recommended Second Substitute): The sale of bulk mercury and the manufacture, sale, and distribution of any mercury-added product is prohibited, as of June 30, 2009. Certain mercury-added products are exempt from this prohibition.

State agency facilities, including learning institutions must recycle their mercury-added general purpose lights by January 1, 2010. By January 1, 2011, all commercial, industrial and retail facilities and office buildings must recycle their mercury-added general purpose lights.

Ecology must research and develop recommendations for implementation and financing of a convenient and effective mercury-added general purpose light recycling program. In developing these recommendations, Ecology must consult with the solid waste advisory

committee and stakeholders, including representatives from: residents, small businesses, local governments, and environmental organizations.

The exemption for crematories is repealed.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): Two changes are made to the list of products that are exempt from the prohibition against the sale, manufacture, and distribution of mercury-added products. The exemption for medical injections is removed in its entirety, and the technical description of exempt automotive switches is revised.

EFFECT OF CHANGES MADE BY WATER, ENERGY & TELECOMMUNICATIONS COMMITTEE (Recommended Substitute As Passed Committee): The requirements for recycling mercury-added products; discharging mercury to water and wastewater; and a product stewardship for mercury-added general purpose lights are removed. There is an exemption from the prohibition of the manufacture, sale, and distribution of mercury added products for certain products. The exemption for cosmetics and pharmaceuticals with added mercury regulated by the Federal Food and Drug Administration is removed.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony As Heard in Committee (Water, Energy & Telecommunications): PRO: Take-back program by manufacturers of the lights, which removes end-of-life costs from consumers and local governments. Mercury is easily mishandled, and this program is well suited for mercury containing devices. Strongly support shared responsibility for recycling these lights. The provisions to deal with fluorescent lights and bulk mercury are good ideas. Fluorescent lights help to decrease greenhouse gas and energy costs, but there needs to be recycling to assist consumers with disposal. The take-back program shouldn't harm the highly efficient lighting, which helps to reduce dependency on coal-fired energy sources. Fifty percent of dentists no longer use mercury amalgams. The manufacturers of amalgams say that it should not be used internally, or breathed. When determining the costs of dental amalgams and composite fillings, the cost of replacing mercury amalgams in people who were not informed of the mercury in the amalgams, and now want them out, should be included.

CON: There should be a stakeholder effort to determine a workable program. There should not be a disposal ban until a stewardship program is implemented. There are constitutional issues with using a hazardous waste facility, since there is no such facility within this state. The product stewardship program should be eliminated; it is quite burdensome. There should be instead, a workgroup to develop an implementable and effective recycling system that actually works. There should be an exemption for dental offices that are in compliance with the Department of Ecology's memorandum of understanding. There was no difference found

in randomized studies of children with dental amalgams. Banning amalgams takes away the only true affordable method of use for cavities.

OTHER: There are some very effective mercury collection programs. The draft legislation has the disposal of mercury as hazardous waste, which is a much more costly method to meet disposal requirements than defining the waste as dangerous, or universal waste. This change would keep current efforts by the Department of Ecology in place. There are no commercial storage facilities for mercury; without storage facilities, the costs for recyclers will rise exponentially. The ban on mercury switches will impact the agreement businesses have in place with the department. Some of the exemptions that were carefully crafted for the 2003 legislation have been negated by this bill; these exemptions should remain. The change to automotive switches needs to be fixed in order to allow for the agreements made with the Department of Ecology.

Persons Testifying (Water, Energy & Telecommunications): PRO: Lauren Cole, King County Solid Waste Division; Dave Galvin, Local Hazardous Waste Program, King County; David Stitzhal, NorthWest Product Stewardship Council; Robb Menaul, WSHA; Suellen Mele, WA Citizens for Resource Conservation; Bill Osmunson, DDS, International Academy of Oral Medicine & Toxicology.

CON: Charlie Brown, National Electrical Manufacturers Association; Mark Johnson, WA Retail Association; David Hemion, WA State Dental Association; Michael Martin, UW, School of Dentistry; Vicki Austin, WA Refuse & Recycling Association.

OTHER: Gary Smith, Independent Business Association; Carrie Dolwick, NW Energy Coalition; Darin Rice, Department of Ecology; Craig Lorch, EcoLights NW; Nancee Wildermuth, Alliance of Automobile Manufacturers,

Staff Summary of Public Testimony on Recommended First Substitute (Ways & Means): PRO: The bill seeks to limit mercury exposure and pollution; the intention is to continue to work with groups who have concerns about the bill.

CON: The requirement that consumers receive information regarding the amount of mercury in medical injections is an attempt to regulate health care through a recycling bill.

OTHER: NEMA looks forward to working with the prime sponsor on this bill.

Persons Testifying (Ways & Means): PRO: Senator Phil Rockefeller, on behalf of prime sponsor Senator Eric Oemig.

CON: Jeff Killip, Washington State Association of Local Public Health Officials.

OTHER: Charlie Brown, National Electrical Manufacturers' Association.