
SUBSTITUTE SENATE BILL 5543

State of Washington

61st Legislature

2010 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Pridemore, Oemig, Rockefeller, Fairley, Murray, Kline, Keiser, Shin, Regala, Franklin, McAuliffe, Fraser, Ranker, and Kohl-Welles)

READ FIRST TIME 02/05/10.

1 AN ACT Relating to mercury reduction; amending RCW 70.95M.010 and
2 70.95M.050; adding a new chapter to Title 70 RCW; and prescribing
3 penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Mercury-containing lighting is toxic and is difficult to
7 collect and recycle and is appropriate for a product stewardship
8 program;

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

13 (3) The purpose of this act is to achieve a statewide goal of
14 recycling all end-of-life mercury-containing lights by 2020 through
15 expanded public education, a uniform statewide requirement to recycle
16 all mercury-containing lights, and the development of a comprehensive,
17 safe, and convenient collection system that includes use of residential
18 curbside collection programs, mail-back containers, increased support

1 for household hazardous waste facilities, and a network of additional
2 collection locations;

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

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

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

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

14 (2) "Covered entities" means:

15 (a) A single-family or a multifamily household generator and
16 persons that deliver no more than fifteen mercury-containing lights to
17 registered collectors for a product stewardship program during a
18 ninety-day period; and

19 (b) A single-family or a multifamily household generator and
20 persons that utilize a registered residential curbside collection
21 program or a mail-back program for collection of mercury-containing
22 lights and that discards no more than fifteen mercury-containing lights
23 into those programs during a ninety-day period.

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

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

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

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

35 (5) "Final disposition" means the point beyond which no further
36 processing takes place and materials from mercury-containing lights

1 have been transformed for direct use as a feedstock in producing new
2 products, or disposed of or managed in permitted facilities.

3 (6) "Hazardous substances" or "hazardous materials" means those
4 substances or materials identified by rules adopted under chapter
5 70.105 RCW.

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

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

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

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

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

28 (12) "Processing" means recovering materials from unwanted products
29 for use as feedstock in new products or disposal or management in
30 permitted facilities.

31 (13) "Producer" means a person that:

32 (a) Has or had legal ownership of the brand, brand name, or cobrand
33 of a mercury-containing light sold in or into Washington state;

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

37 (c) If (a) and (b) of this subsection do not apply, makes or made

1 an unbranded mercury-containing light that is sold or has been sold in
2 or into Washington state; or

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

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

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

16 (16) "Product stewardship program" or "program" means the methods,
17 systems, and services financed and provided by producers of mercury-
18 containing lights generated by covered entities that addresses product
19 stewardship and includes collecting, transporting, reusing, recycling,
20 processing, and final disposition of unwanted mercury-containing
21 lights, including a fair share of orphan products.

22 (17) "Recovery" means the collection and transportation of unwanted
23 mercury-containing lights under this chapter.

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

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

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

32 (20) "Residuals" means nonrecyclable materials left over from
33 processing an unwanted product.

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

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

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

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

10 (24) "Stewardship organization" means an organization designated by
11 a producer or group of producers to act as an agent on behalf of each
12 producer to operate a product stewardship program.

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

16 NEW SECTION. **Sec. 3.** (1) Every producer of mercury-containing
17 lights sold in or into Washington state must participate in a product
18 stewardship program for that product.

19 (2) Every producer must:

20 (a) Operate, either individually or jointly with other producers,
21 a product stewardship program approved by the department; or

22 (b) Enter into an agreement with a product stewardship organization
23 to operate, on the producer's behalf, a product stewardship program
24 approved by the department.

25 (3) A producer, group of producers, or product stewardship
26 organization must pay all administrative and operational costs
27 associated with their program or programs, except for the collection
28 costs associated with curbside and mail-back collection programs. For
29 curbside and mail-back programs, a producer, group of producers, or
30 product stewardship organization shall finance the costs of
31 transporting mercury-containing lights from accumulation points and for
32 processing mercury-containing lights collected by curbside and mail-
33 back programs. For collection locations, including household hazardous
34 waste facilities, charities, retailers, government recycling sites, or
35 other suitable locations, a producer, group of producers, or product
36 stewardship organization shall finance the costs of collection,

1 transportation, and processing of mercury-containing lights collected
2 at the collection locations.

3 (4) Product stewardship programs shall collect, free of charge,
4 unwanted mercury-containing lights delivered from covered entities for
5 reuse, recycling, processing, or final disposition. These services
6 must be provided, at a minimum, in all cities in the state with
7 populations greater than ten thousand and all counties of the state.

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

11 (6) No product stewardship program required under this chapter may
12 use federal or state prison labor for processing unwanted products.

13 (7) Product stewardship programs for mercury-containing lights must
14 be fully implemented by January 1, 2013.

15 NEW SECTION. **Sec. 4.** (1) A producer, group of producers, or
16 product stewardship program must submit a proposed product stewardship
17 plan for mercury-containing lights from covered entities on an ongoing
18 year-round basis to the department by January 1, 2012.

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

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

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

26 (c) The identity of collection, transportation, and processing
27 service providers, including a description of the consideration given
28 to existing residential curbside collection infrastructure and mail-
29 back systems as an appropriate collection mechanism;

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

34 (e) A description of how the public will be informed about the
35 recycling program;

36 (f) A description of the financing system required under section 5
37 of this act;

1 (g) How mercury and other hazardous substances will be handled for
2 collection through final disposition;

3 (h) A public review and comment process; and

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

7 (3) All plans submitted to the department must be made available
8 for public review on the department's web site and at the department's
9 headquarters.

10 (4) At least two years from the start of the product stewardship
11 program and once every four years thereafter, a producer, group of
12 producers, or product stewardship organization operating a product
13 stewardship program must update its product stewardship plan and submit
14 the updated plan to the department for review and approval according to
15 rules adopted by the department.

16 (5) Each product stewardship program shall submit an annual report
17 to the department describing the results of implementing their plan for
18 the prior year. The department may adopt rules for reporting
19 requirements. All reports submitted to the department must be made
20 available for public review on the department's web site and at the
21 department's headquarters.

22 NEW SECTION. **Sec. 5.** (1) All producers that sell mercury-
23 containing lights in or into the state of Washington are responsible
24 for financing the mercury-containing light recycling program described
25 in the plans required by section 4 of this act.

26 (2) Each plan will assess participating producers a fee to cover
27 the cost of implementing the plan. No producer is responsible for
28 paying more than ten thousand dollars or less than one thousand dollars
29 for the operation of the product stewardship program in the initial
30 year of operation.

31 (3) The department shall adopt rules regarding how the product
32 stewardship organization may adjust the fee above or below the limits
33 provided in subsection (2) of this section should product stewardship
34 program costs exceed available revenues.

35 NEW SECTION. **Sec. 6.** (1) All mercury-containing lights collected

1 in the state by product stewardship programs or other collection
2 programs must be recycled and any process residuals must be managed in
3 compliance with applicable laws.

4 (2) Mercury recovered from retorting must be recycled or placed in
5 a properly permitted hazardous waste landfill, or placed in a properly
6 permitted mercury repository.

7 NEW SECTION. **Sec. 7.** Effective January 1, 2013:

8 (1) All persons, residents, government, commercial, industrial, and
9 retail facilities and office buildings must recycle their end-of-life
10 mercury-containing lights.

11 (2) No mercury-containing lights may knowingly be placed in waste
12 containers for disposal at incinerators, waste to energy facilities, or
13 landfills.

14 (3) No mercury-containing lights may knowingly be placed in a
15 container for mixed recyclables unless there is a separate location or
16 compartment for the mercury-containing lights that complies with local
17 government collection standards or guidelines.

18 (4) No owner or operator of a solid waste facility may be found in
19 violation of this section if the facility has posted in a conspicuous
20 location a sign stating that mercury-containing lights must be recycled
21 and are not accepted for disposal.

22 (5) No solid waste collector may be found in violation of this
23 section for mercury-containing lights placed in a disposal container by
24 the generator of the mercury-containing light.

25 NEW SECTION. **Sec. 8.** (1) Except for persons involved in
26 registered mail-back programs, a person who collects unwanted mercury-
27 containing lights in the state, receives funding through a product
28 stewardship program for mercury-containing lights, and who is not a
29 generator of unwanted mercury-containing lights must:

30 (a) Register with the department as a collector of unwanted
31 mercury-containing lights. Until the department adopts rules for
32 collectors, the collector must provide to the department the legal name
33 of the person or entity owning and operating the collection location,
34 the address and phone number of the collection location, and the name,
35 address, and phone number of the individual responsible for operating

1 the collection location and update any changes in this information
2 within thirty days of the change;

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

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

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

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

21 NEW SECTION. **Sec. 9.** As of the implementation date established
22 under this chapter for mercury-containing lights, no producer,
23 wholesaler, retailer, or other person may sell or offer for sale that
24 product to any person in this state unless the producer is
25 participating in a product stewardship program under a plan approved by
26 the department.

27 NEW SECTION. **Sec. 10.** (1) The department shall send a written
28 warning and a copy of this chapter and any rules adopted to implement
29 this chapter to a producer who is not participating in a product
30 stewardship program approved by the department and whose mercury-
31 containing lights are being sold in or into the state.

32 (2) A producer not participating in a product stewardship program
33 approved by the department whose mercury-containing lights continue to
34 be sold in or into the state sixty days after receiving a written
35 warning from the department shall be assessed a penalty of one thousand

1 dollars for each violation. A violation is the sale of one mercury-
2 containing light.

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

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

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

22 (6) A producer may appeal penalties prescribed under this section
23 to the pollution control hearings board created under chapter 43.21B
24 RCW.

25 NEW SECTION. **Sec. 11.** (1) The department shall provide on its web
26 site a list of all producers participating in product stewardship
27 programs that the department has approved and a list of all producers
28 the department has identified as noncompliant with this chapter and any
29 rules adopted to implement this chapter.

30 (2) Product retailers must check the department's web site or
31 producer-provided written verification to determine if producers of
32 products they are selling in or into the state are in compliance with
33 this chapter.

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

1 (4) The department may assess a penalty of up to five hundred
2 dollars per violation. A violation is the sale of one covered product.

3 (5) The department shall adopt rules to implement this section.

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

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

12 (8) In-state retailers in possession of mercury-containing lights
13 on the date that restrictions on the sale of the product become
14 effective may exhaust their existing stock through sales to the public.

15 NEW SECTION. **Sec. 12.** All producers shall pay the department
16 annual fees to cover the cost of administering and enforcing this
17 chapter. The initial annual fee is five thousand dollars for all
18 manufacturers with a market share of one percent or more and one
19 thousand dollars for all manufacturers with a market share of less than
20 one percent for the first two years of department costs. The
21 department shall adopt rules to establish fees in amounts to fully
22 recover and not exceed expenses incurred by the department to implement
23 this chapter for the third and ensuing years.

24 NEW SECTION. **Sec. 13.** The product stewardship programs account is
25 created in the custody of the state treasurer. All funds received from
26 producers under section 12 of this act and penalties collected under
27 this chapter must be deposited in the account. Expenditures from the
28 account may be used only for administering this chapter. Only the
29 director of the department or the director's designee may authorize
30 expenditures from the account. The account is subject to the allotment
31 procedures under chapter 43.88 RCW, but an appropriation is not
32 required for expenditures.

33 NEW SECTION. **Sec. 14.** (1) The department may adopt rules
34 necessary to implement, administer, and enforce this chapter.

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

4 (3) By December 31, 2013, the department shall report to the
5 appropriate committees of the legislature concerning the status of the
6 product stewardship program and recommendations for changes to the
7 provisions of this chapter.

8 (4) Beginning October 1, 2013, the department shall annually invite
9 comments from local governments, communities, and citizens to report
10 their satisfaction with services provided by product stewardship
11 programs. This information must be used by the department to determine
12 if the plan operator is meeting convenience requirements and in
13 reviewing proposed updates or changes to product stewardship plans.

14 (5) Beginning October 1, 2013, the department shall annually invite
15 comments from retailers, consumer groups, electric utilities, the
16 Northwest power and conservation council, and other interested parties
17 regarding the impacts of the requirements of this chapter on the
18 availability or purchase of energy efficient lighting within the state.
19 If the department determines that evidence shows the requirements of
20 this chapter have resulted in negative impacts on the availability or
21 purchase of energy efficient lighting in the state, the department
22 shall report this information by December 31st of each year to the
23 appropriate committees of the legislature with recommendations for
24 changes to the provisions of this chapter.

25 (6) Beginning October 1, 2013, the department shall annually invite
26 comments from retailers, consumer groups, electric utilities, the
27 Northwest power and conservation council, and other interested parties
28 regarding the availability of energy efficient nonmercury lighting to
29 replace mercury-containing lighting within the state. If the
30 department determines that evidence shows that energy efficient
31 nonmercury-containing lighting is available and achieves similar energy
32 savings as mercury lighting at similar cost, the department shall
33 report this information by December 31st of each year to the
34 appropriate committees of the legislature with recommendations for
35 legislative changes to reduce mercury use in lighting.

36 (7) Beginning October 1, 2013, the department shall annually
37 estimate the overall statewide recycling rate for mercury-containing

1 lights and calculate that portion of the recycling rate attributable to
2 the product stewardship program.

3 (8) The department may require submission of independent
4 performance evaluations and report evaluations documenting the
5 effectiveness of mercury vapor barrier packaging in preventing the
6 escape of mercury into the environment. The department may restrict
7 the use of packaging for which adequate documentation has not been
8 provided. Any program using restricted mercury vapor barrier packaging
9 is not eligible for participation in the product stewardship program
10 for mercury-containing lights.

11 NEW SECTION. **Sec. 15.** Nothing in this chapter changes or limits
12 the authority of the Washington utilities and transportation commission
13 to regulate collection of solid waste, including curbside collection of
14 residential recyclable materials, nor does this chapter change or limit
15 the authority of a city or town to provide such service itself or by
16 contract under RCW 81.77.020.

17 NEW SECTION. **Sec. 16.** Nothing in this chapter changes the
18 requirements of any entity regulated under chapter 70.105 RCW to comply
19 with the requirements under that chapter.

20 NEW SECTION. **Sec. 17.** This chapter must be liberally construed to
21 carry out its purposes and objectives.

22 **Sec. 18.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to
23 read as follows:

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

26 (1) (~~"Automotive mercury switch" includes a convenience switch,~~
27 ~~such as a switch for a trunk or hood light, and a mercury switch in~~
28 ~~antilock brake systems.)) "Bulk mercury" includes any elemental,
29 nonamalgamated mercury, regardless of volume quantity or weight and
30 does not include products containing mercury collected for recycling or
31 disposal at a permitted disposal facility.~~

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

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

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

5 (5) "Manufacturer" includes any person, firm, association,
6 partnership, corporation, governmental entity, organization, or joint
7 venture that produces a mercury-added product or an importer or
8 domestic distributor of a mercury-added product produced in a foreign
9 country. In the case of a multicomponent product containing mercury,
10 the manufacturer is the last manufacturer to produce or assemble the
11 product. If the multicomponent product or mercury-added product is
12 produced in a foreign country, the manufacturer is the first importer
13 or domestic distributor.

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

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

26 (8) "Mercury-added product" means a product, commodity, or
27 chemical, or a product with a component that contains mercury or a
28 mercury compound intentionally added to the product, commodity, or
29 chemical in order to provide a specific characteristic, appearance, or
30 quality, or to perform a specific function, or for any other reason.
31 Mercury-added products include those products listed in the interstate
32 mercury education and reduction clearinghouse mercury-added products
33 database, but are not limited to, mercury thermometers, mercury
34 thermostats, mercury barometers, lamps, and mercury switches (~~in motor~~
35 ~~vehicles~~) or relays.

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

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

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

4 (12) "Switch" means any device, which may be referred to as a
5 switch, sensor, valve, probe, control, transponder, or any other
6 apparatus, that directly regulates or controls the flow of electricity,
7 gas, or other compounds, such as relays or transponders. "Switch"
8 includes all components of the unit necessary to perform its flow
9 control function. "Automotive mercury switch" includes a convenience
10 switch, such as a switch for a trunk or hood light, and a mercury
11 switch in antilock brake systems. "Utility switch" includes, but is
12 not limited to, all devices that open or close an electrical circuit,
13 or a liquid or gas valve. "Utility relay" includes, but is not limited
14 to, all products or devices that open or close electrical contacts to
15 control the operation of other devices in the same or other electrical
16 circuit.

17 (13) "Wholesaler" means a wholesaler of a mercury-added product.

18 **Sec. 19.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to
19 read as follows:

20 (1) Effective January 1, 2006, no person may sell, offer for sale,
21 or distribute for sale or use in this state a mercury-added novelty.
22 A manufacturer of mercury-added novelties must notify all retailers
23 that sell the product about the provisions of this section and how to
24 properly dispose of any remaining mercury-added novelty inventory.

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

29 (i) An electronic thermometer with a button-cell battery containing
30 mercury;

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

34 (iii) A thermometer that contains mercury and that is a component
35 of an animal agriculture climate control system or industrial
36 measurement system or for veterinary medicine until such a time as the

1 system is replaced or a nonmercury component for the system or
2 application is available;

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

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

11 (vi) A manometer or thermometer sold or distributed to a hospital,
12 or a health care facility controlled by a hospital, if the hospital has
13 adopted a plan for mercury reduction consistent with the goals of the
14 mercury chemical action plan developed by the department under section
15 302, chapter 371, Laws of 2002.

16 (b) A manufacturer of thermometers that contain mercury must notify
17 all retailers that sell the product about the provisions of this
18 section and how to properly dispose of any remaining thermometer
19 inventory.

20 (3) Effective January 1, 2006, no person may sell, install, or
21 reinstall a commercial or residential thermostat that contains mercury
22 unless the manufacturer of the thermostat conducts or participates in
23 a thermostat recovery or recycling program designed to assist
24 contractors in the proper disposal of thermostats that contain mercury
25 in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource
26 conservation and recovery act.

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

30 (5) Nothing in this section restricts the ability of a
31 manufacturer, importer, or domestic distributor from transporting
32 products through the state, or storing products in the state for later
33 distribution outside the state.

34 (6) Effective June 30, 2012, the sale or purchase and delivery of
35 bulk mercury is prohibited, including sales through the internet or
36 sales by private parties. However, the prohibition in this subsection
37 does not apply to immediate dangerous waste recycling facilities or
38 treatment, storage, and disposal facilities as approved by the

1 department and sales to research facilities, or industrial facilities
2 that provide products or services to entities exempted from this
3 chapter. The facilities described in this subsection must submit an
4 inventory of their purchase and use of bulk mercury to the department
5 on an annual basis, as well as any mercury waste generated from such
6 actions.

7 NEW SECTION. Sec. 20. Sections 1 through 17 and 21 of this act
8 constitute a new chapter in Title 70 RCW.

9 NEW SECTION. Sec. 21. If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

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