

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5543

61st Legislature
2010 Regular Session

Passed by the Senate March 6, 2010
YEAS 36 NAYS 12

President of the Senate

Passed by the House March 2, 2010
YEAS 71 NAYS 27

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5543** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5543

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

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

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

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

1 curbside collection programs, mail-back containers, increased support
2 for household hazardous waste facilities, and a network of additional
3 collection locations;

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

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

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

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

15 (2) "Covered entities" means:

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

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

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

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

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

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

36 (5) "Final disposition" means the point beyond which no further

1 processing takes place and materials from mercury-containing lights
2 have been transformed for direct use as a feedstock in producing new
3 products, or disposed of or managed in permitted facilities.

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

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

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

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

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

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

29 (12) "Processing" means recovering materials from unwanted products
30 for use as feedstock in new products. Processing must occur at
31 permitted facilities.

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

33 (a) Has or had legal ownership of the brand, brand name, or cobrand
34 of a mercury-containing light sold in or into Washington state, except
35 for persons whose primary business is retail sales;

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

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

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

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

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

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

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

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

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

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

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

35 (21) "Retailer" means a person who offers mercury-containing lights
36 for sale at retail through any means including, but not limited to,
37 remote offerings such as sales outlets, catalogs, or the internet, but

1 does not include a sale that is a wholesale transaction with a
2 distributor or a retailer.

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

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

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

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

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

18 NEW SECTION. **Sec. 3.** (1) Every producer of mercury-containing
19 lights sold in or into Washington state for residential use must fully
20 finance and participate in a product stewardship program for that
21 product, including the department's costs for administering and
22 enforcing this chapter.

23 (2) Every producer must:

24 (a) Participate in a product stewardship program approved by the
25 department and operated by a product stewardship organization
26 contracted by the department. All producers must finance and
27 participate in the plan operated by the product stewardship
28 organization, unless the producer obtains department approval for an
29 independent plan as described in (b) of this subsection; or

30 (b) Finance and operate, either individually or jointly with other
31 producers, a product stewardship program approved by the department.

32 (3) A producer, group of producers, or product stewardship
33 organization funded by producers must pay all administrative and
34 operational costs associated with their program or programs, except for
35 the collection costs associated with curbside and mail-back collection
36 programs. For curbside and mail-back programs, a producer, group of
37 producers, or product stewardship organization shall finance the costs

1 of transporting mercury-containing lights from accumulation points and
2 for processing mercury-containing lights collected by curbside and
3 mail-back programs. For collection locations, including household
4 hazardous waste facilities, charities, retailers, government recycling
5 sites, or other suitable locations, a producer, group of producers, or
6 product stewardship organization shall finance the costs of collection,
7 transportation, and processing of mercury-containing lights collected
8 at the collection locations.

9 (4) Product stewardship programs shall collect unwanted mercury-
10 containing lights delivered from covered entities for reuse, recycling,
11 processing, or final disposition, and not charge a fee when lights are
12 dropped off or delivered into the program.

13 (5) Product stewardship programs shall provide, at a minimum, no
14 cost services in all cities in the state with populations greater than
15 ten thousand and all counties of the state on an ongoing, year-round
16 basis.

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

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

23 (8) No product stewardship program required under this chapter may
24 use federal or state prison labor for processing unwanted products.

25 (9) Product stewardship programs for mercury-containing lights must
26 be fully implemented by January 1, 2013.

27 NEW SECTION. **Sec. 4.** (1) A producer, group of producers, or
28 product stewardship program submitting a proposed product stewardship
29 plan under section 3(2)(b) of this act must submit that plan by January
30 1st of the year prior to the planned implementation.

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

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

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

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

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

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

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

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

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

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

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

22 (4) At least two years from the start of the product stewardship
23 program and once every four years thereafter, a producer, group of
24 producers, or product stewardship organization operating a product
25 stewardship program must update its product stewardship plan and submit
26 the updated plan to the department for review and approval according to
27 rules adopted by the department.

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

34 NEW SECTION. **Sec. 5.** (1) All producers that sell mercury-
35 containing lights in or into the state of Washington are responsible
36 for financing the mercury-containing light recycling program required
37 by section 3 of this act.

1 (2) Each producer shall pay fifteen thousand dollars to the
2 department to contract for a product stewardship program to be operated
3 by a product stewardship organization. The department shall retain
4 five thousand dollars of the fifteen thousand dollars for
5 administration and enforcement costs.

6 (3) A producer or producers participating in an independent plan,
7 as permitted under section 3(2)(b) of this act, must pay the full cost
8 of operation. Each producer participating in an approved independent
9 plan shall pay an annual fee of five thousand dollars to the department
10 for administration and enforcement costs.

11 NEW SECTION. **Sec. 6.** (1) All mercury-containing lights collected
12 in the state by product stewardship programs or other collection
13 programs must be recycled and any process residuals must be managed in
14 compliance with applicable laws.

15 (2) Mercury recovered from retorting must be recycled or placed in
16 a properly permitted hazardous waste landfill, or placed in a properly
17 permitted mercury repository.

18 NEW SECTION. **Sec. 7.** (1) Except for persons involved in
19 registered mail-back programs, a person who collects unwanted mercury-
20 containing lights in the state, receives funding through a product
21 stewardship program for mercury-containing lights, and who is not a
22 generator of unwanted mercury-containing lights must:

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

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

35 (c) Maintain a worker safety plan at the collection location that

1 describes the handling of the unwanted mercury-containing lights at the
2 collection location and measures that will be taken to protect worker
3 health and safety; and

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

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

14 NEW SECTION. **Sec. 8.** Effective January 1, 2013:

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

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

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

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

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

32 NEW SECTION. **Sec. 9.** As of January 1, 2013, no producer,
33 wholesaler, retailer, electric utility, or other person may distribute,
34 sell, or offer for sale mercury-containing lights for residential use
35 to any person in this state unless the producer is participating in a
36 product stewardship program under a plan approved by the department.

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

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

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

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

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

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

33 NEW SECTION. **Sec. 11.** (1) The department shall provide on its web
34 site a list of all producers participating in a product stewardship
35 plan that the department has approved and a list of all producers the
36 department has identified as noncompliant with this chapter and any
37 rules adopted to implement this chapter.

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 12.** All producers shall pay the department
2 annual fees to cover the cost of administering and enforcing this
3 chapter. The department may prioritize the work to implement this
4 chapter if fees are not adequate to fund all costs of the program.

5 NEW SECTION. **Sec. 13.** The product stewardship programs account is
6 created in the custody of the state treasurer. All funds received from
7 producers under this chapter and penalties collected under this chapter
8 must be deposited in the account. Expenditures from the account may be
9 used only for administering this chapter. Only the director of the
10 department or the director's designee may authorize expenditures from
11 the account. The account is subject to the allotment procedures under
12 chapter 43.88 RCW, but an appropriation is not required for
13 expenditures.

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

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

19 (3) By December 31, 2010, and annually thereafter until December
20 31, 2014, the department shall report to the appropriate committees of
21 the legislature concerning the status of the product stewardship
22 program and recommendations for changes to the provisions of this
23 chapter.

24 (4) Beginning October 1, 2014, the department shall annually invite
25 comments from local governments, communities, and citizens to report
26 their satisfaction with services provided by product stewardship
27 programs. This information must be used by the department to determine
28 if the plan operator is meeting convenience requirements and in
29 reviewing proposed updates or changes to product stewardship plans.

30 (5) Beginning October 1, 2014, the department shall annually invite
31 comments from retailers, consumer groups, electric utilities, the
32 Northwest power and conservation council, and other interested parties
33 regarding the impacts of the requirements of this chapter on the
34 availability or purchase of energy efficient lighting within the state.
35 If the department determines that evidence shows the requirements of
36 this chapter have resulted in negative impacts on the availability or

1 purchase of energy efficient lighting in the state, the department
2 shall report this information by December 31st of each year to the
3 appropriate committees of the legislature with recommendations for
4 changes to the provisions of this chapter.

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

16 (7) Beginning October 1, 2014, the department shall annually
17 estimate the overall statewide recycling rate for mercury-containing
18 lights and calculate that portion of the recycling rate attributable to
19 the product stewardship program.

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

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

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

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

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

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

7 (1) (~~"Automotive mercury switch" includes a convenience switch,~~
8 ~~such as a switch for a trunk or hood light, and a mercury switch in~~
9 ~~antilock brake systems.)) "Bulk mercury" includes any elemental,
10 nonamalgamated mercury, regardless of volume quantity or weight and
11 does not include products containing mercury collected for recycling or
12 disposal at a permitted disposal facility.~~

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

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

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

19 (5) "Manufacturer" includes any person, firm, association,
20 partnership, corporation, governmental entity, organization, or joint
21 venture that produces a mercury-added product or an importer or
22 domestic distributor of a mercury-added product produced in a foreign
23 country. In the case of a multicomponent product containing mercury,
24 the manufacturer is the last manufacturer to produce or assemble the
25 product. If the multicomponent product or mercury-added product is
26 produced in a foreign country, the manufacturer is the first importer
27 or domestic distributor.

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

31 (7) "Mercury-added novelty" means a mercury-added product intended
32 mainly for personal or household enjoyment or adornment. Mercury-added
33 novelties include, but are not limited to, items intended for use as
34 practical jokes, figurines, adornments, toys, games, cards, ornaments,
35 yard statues and figures, candles, jewelry, holiday decorations, items
36 of apparel, and other similar products. Mercury-added novelty does not

1 include games, toys, or products that require a button-cell or lithium
2 battery, liquid crystal display screens, or a lamp that contains
3 mercury.

4 (8) "Mercury-added product" means a product, commodity, or
5 chemical, or a product with a component that contains mercury or a
6 mercury compound intentionally added to the product, commodity, or
7 chemical in order to provide a specific characteristic, appearance, or
8 quality, or to perform a specific function, or for any other reason.
9 Mercury-added products include those products listed in the interstate
10 mercury education and reduction clearinghouse mercury-added products
11 database, but are not limited to, mercury thermometers, mercury
12 thermostats, mercury barometers, lamps, and mercury switches (~~in motor~~
13 ~~vehicles~~) or relays.

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

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

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

19 (12) "Switch" means any device, which may be referred to as a
20 switch, sensor, valve, probe, control, transponder, or any other
21 apparatus, that directly regulates or controls the flow of electricity,
22 gas, or other compounds, such as relays or transponders. "Switch"
23 includes all components of the unit necessary to perform its flow
24 control function. "Automotive mercury switch" includes a convenience
25 switch, such as a switch for a trunk or hood light, and a mercury
26 switch in antilock brake systems. "Utility switch" includes, but is
27 not limited to, all devices that open or close an electrical circuit,
28 or a liquid or gas valve. "Utility relay" includes, but is not limited
29 to, all products or devices that open or close electrical contacts to
30 control the operation of other devices in the same or other electrical
31 circuit.

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

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

35 (1) Effective January 1, 2006, no person may sell, offer for sale,
36 or distribute for sale or use in this state a mercury-added novelty.

1 A manufacturer of mercury-added novelties must notify all retailers
2 that sell the product about the provisions of this section and how to
3 properly dispose of any remaining mercury-added novelty inventory.

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

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

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

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

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

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

26 (vi) A manometer or thermometer sold or distributed to a hospital,
27 or a health care facility controlled by a hospital, if the hospital has
28 adopted a plan for mercury reduction consistent with the goals of the
29 mercury chemical action plan developed by the department under section
30 302, chapter 371, Laws of 2002.

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

35 (3) Effective January 1, 2006, no person may sell, install, or
36 reinstall a commercial or residential thermostat that contains mercury
37 unless the manufacturer of the thermostat conducts or participates in
38 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 (6) Effective June 30, 2012, the sale or purchase and delivery of
12 bulk mercury is prohibited, including sales through the internet or
13 sales by private parties. However, the prohibition in this subsection
14 does not apply to immediate dangerous waste recycling facilities or
15 treatment, storage, and disposal facilities as approved by the
16 department and sales to research facilities, or industrial facilities
17 that provide products or services to entities exempted from this
18 chapter. The facilities described in this subsection must submit an
19 inventory of their purchase and use of bulk mercury to the department
20 on an annual basis, as well as any mercury waste generated from such
21 actions.

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

24 NEW SECTION. Sec. 21. If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

--- END ---