

M . introduced the following bill; which was referred to the Committee on

A BILL

To achieve reductions in environmental mercury through the collection and removal of vehicle mercury switches, mercury sensors, and other mercury-added components from vehicles in commerce in the [state or United States] by vehicle manufacturers, and by implementing a Design For Recycling program for future vehicles to prohibit the use of mercury or mercury-added components, and for other purposes.

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.-This Act may be cited as the "Mercury-Free Vehicle Act of
3 200X."

4 (b) TABLE OF CONTENTS. -The table of contents of this Act is as follows:

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6 **SECTION 2. FINDINGS AND DECLARATIONS.**

7 (a) The legislature finds that:

8 (1) Mercury is a persistent and toxic pollutant that bioaccumulates in the
9 environment.

10 (2) Forty-one (41) states [including [name of state]] have issued fish advisories
11 that warn certain individuals to restrict or avoid consuming fish from bodies of water
12 contaminated with mercury. (U.S. Environmental Protection Agency, Fact Sheet -
13 Update: National Listing of Fish and Wildlife Advisories, April 2001. (EPA-823-F-
14 01-010)

15 (3) The U.S. Food and Drug Administration has advised pregnant women and
16 women of childbearing age who may become pregnant not to eat shark, swordfish,
17 king mackerel, and tilefish due to methyl mercury contamination. (U.S. Food and

1 Drug Administration, "Updated Consumer Advisory - FDA Announces Advisory on
2 Methyl Mercury in Fish," March 2001.)

3 (4) According to National Research Council estimates, over 60,000 babies are
4 born annually at risk for adverse neurodevelopmental effects from in utero exposure
5 to methylmercury resulting from the consumption of mercury contaminated fish.
6 These children will have to struggle to keep up in school and might require remedial
7 classes or special education. (National Research Council, "Toxicological Effects of
8 Methylmercury," 2000.)

9 (5) Recent findings show historic and current use of mercury in automobiles can
10 cause the release of as much as 10 tons of mercury to the environment each year.
11 Based on the automobile industry's own data, there is an estimated 150-200 tons of
12 mercury contained in the vehicles currently on the road in North America.

13 (6) Pollution prevention is the preferred strategy, more desirable than waste
14 management and pollution control. Preventing mercury or mercury-containing
15 components from entering thermal combustion units is an effective way to reduce
16 mercury emissions into the environment.

17 (7) Vehicle mercury switch collection programs are being established across the
18 country to protect human health and the environment.

19 (b) The legislature declares that the purpose of this Act is to reduce the quantity of
20 mercury in the environment by:

21 (1) removing mercury from vehicles in commerce and end-of-life vehicles in the
22 [state or United States];

23 (2) creating a collection and recovery program for mercury switches removed
24 from vehicles in the [state or United States];

25 (3) establishing a system to store the mercury collected and recovered from
26 vehicle components in the event that environmentally appropriate management
27 technologies are not available; and

28 (4) designing future vehicles for maximum environmental protection and
29 recyclability at the end of their useful lives by implementing a Design for Recycling
30 program which includes phasing out the use of mercury in future vehicle models.

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1 **SECTION 3. DEFINITIONS.**

2 For the purpose of this Act:

3 (a) "Mercury-added component" means a component that contains mercury and
4 which was intentionally added to a vehicle in order to provide a specific characteristic,
5 appearance, or quality or to perform a specific function, or for any other reason. Such
6 components may include, but are not limited to, switches, sensors, lights, and
7 navigational systems.

8 (b) "Manufacturer" means any person, firm, association, partnership, corporation,
9 governmental entity, organization, combination, or joint venture which is the last person
10 to produce or assemble a new vehicle that utilizes mercury-added components, or in the
11 case of an imported vehicle, the importer or domestic distributor of such vehicle.

12 (c) "Mercury-added switch", a light switch or an ABS brake system switch installed
13 by an automotive manufacturer in a motor vehicle.

14 (d) "Scrap recycling facility" means a fixed location, where machinery and
15 equipment are utilized for processing and manufacturing scrap metal into prepared grades
16 and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale
17 for remelting purposes.

18 (e) "Vehicle recycler" means any individual or entity engaged in the business of
19 acquiring, dismantling or destroying six or more vehicles in a calendar year for the
20 primary purpose of resale of their parts.

21 (f) "Vehicle in commerce" means any vehicle offered for sale by a dealer or
22 registered [by state or in the United States] to be operated on public roads and highways.

23 (g) "End-of-life vehicle" means any vehicle which is sold, given or otherwise
24 conveyed to a vehicle recycler or scrap recycling facility for the purpose of recycling.

25 (h) "Capture Rate" means removal, collection, and recovery as a percentage of the
26 total mercury available from vehicles in commerce and end-of-life vehicles annually.

27 (i) "Manufacturer-Dealer Warranty Program" means an arrangement between a
28 manufacturer and its franchisee(s), whereby the manufacturer agrees to reimburse the
29 franchisee(s), at established rates, for labor or parts necessary to repair a vehicle pursuant
30 to the manufacturer's original equipment warranty to the original purchaser of the
31 vehicle.
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1 **SECTION 4. REMOVAL, REPLACEMENT, COLLECTION, AND RECOVERY**
2 **OF VEHICLE MERCURY SWITCHES.**

3 Within ninety (90) days of enactment of this section, every manufacturer of vehicles
4 sold within [state or the United States] shall, individually or as part of a group, submit to
5 [name of proper authority or agency] for review and approval a plan to remove, collect,
6 and recover mercury switches.

7 (a) (1) Removal, Replacement, Collection, and Recovery System. -Vehicle
8 manufacturers shall develop and implement a system to remove; replace, where
9 possible; collect; and recover mercury switches from vehicles in commerce and end-
10 of-life vehicles. For vehicles in commerce, the system shall provide for the removal,
11 collection, and recovery of mercury switches, and replace them with mercury-free
12 alternatives, where possible; the system shall also provide for the removal, collection,
13 and recovery of mercury switches from end-of-life vehicles.

14 (2) The removal; replacement, where possible; collection; and recovery system
15 shall include, at a minimum, the following:

16 (A) an education program to inform the public and other stakeholders about
17 the purposes of the collection program and how to participate in it;

18 (B) a plan for implementing and financing the system, in accordance with
19 Section 4 paragraph (b);

20 (C) documentation of the willingness of all necessary parties to implement the
21 proposed system;

22 (D) information identifying the make, model, and year of vehicles containing
23 mercury switches; a description of the component; the location of these
24 components; and the safe, cost effective, and environmentally sound methods for
25 their removal from vehicles in commerce and end-of-life vehicles.

26 (E) a mercury switch capture rate of at least 90 per cent, consistent with the
27 principle that mercury switches shall be recovered unless the part is inaccessible
28 due to significant damage to the vehicle in the area surrounding where the
29 mercury switch is located;

30 (F) a description of the performance measures to be utilized and reported upon
31 by the manufacturer to demonstrate that the system is meeting the capture rate

1 identified in paragraph (E) of this section and other measures of program
2 effectiveness, including, but not limited to, the number of switches collected from
3 both end-of-life and vehicles in commerce, amount of mercury collected, the
4 number of vehicles containing mercury switches, and the number of vehicles
5 processed for recycling;

6 (G) a description of additional or alternative actions that shall be implemented
7 to improve the system and its operation in the event that the program targets
8 established under paragraph (E) are not met; and

9 (H) a plan to store the mercury collected and recovered from vehicle
10 components in the event that environmentally appropriate management
11 technologies are not available.

12 (3) Use of Existing Infrastructure for Mercury Switch Replacement. In
13 developing a removal, replacement, collection, and recovery system, manufacturers
14 shall, to the extent practicable, utilize existing dealerships, service stations, inspection
15 stations, repair shops, and other facilities which regularly service vehicles in
16 commerce. Where a manufacturer does not utilize such infrastructure, the
17 manufacturer shall include in its plan the reasons for establishing a separate removal,
18 replacement, collection, and recovery infrastructure.

19 (4) Use of Existing End-of-Life Vehicle Infrastructure for Mercury Switch
20 Removal. In developing a removal, collection, and recovery system, manufacturers
21 shall, to the extent practicable, utilize the existing end-of-life vehicle recycling
22 infrastructure. Where a manufacturer does not utilize such infrastructure, the
23 manufacturer must include in its plan the reasons for establishing a separate removal,
24 collection, and recovery infrastructure.

25 (b) Cost. The total cost of the removal, replacement, collection, and recovery system
26 for mercury switches shall be borne by the manufacturer or manufacturers. Costs shall
27 include, but not be limited to, the following:

28 (1) labor to remove, or replace where possible, mercury switches. Labor shall be
29 reimbursed at the prevailing rate auto manufacturers use to reimburse automotive
30 dealers for replacing faulty switches under the manufacturer-dealer warranty
31 program;

- 1 (2) training;
- 2 (3) packaging in which to transport mercury switches to recycling, storage or
- 3 disposal facilities;
- 4 (4) shipping of mercury switches to recycling, storage or disposal facilities;
- 5 (5) recycling, storage or disposal of the mercury switches;
- 6 (6) public education materials and presentations; and
- 7 (7) maintenance of all appropriate systems and procedures to protect the
- 8 environment from mercury contamination.

9 (c) Plan Approval. The [Title of Appropriate Official] of the [Name of Appropriate
10 Department or Agency] shall:

- 11 (1) within 30 days of receipt of a manufacturer's plan, issue public notice and
- 12 solicit public comment on the manufacturer's plan;
- 13 (2) Within 90 days after receipt of a manufacturer's plan:
 - 14 (A) determine whether the entire plan complies with this section. If the entire
 - 15 plan is approved, the manufacturer shall begin implementation as soon as
 - 16 practicable. If the entire plan is rejected, the [Title of Appropriate Official] shall
 - 17 inform the manufacturer as to the reasons for such rejection. The manufacturer
 - 18 will have thirty days thereafter to submit a new plan; or
 - 19 (B) determine whether any part of the plan meets the requirements of this
 - 20 section and shall approve such part(s) and disapprove such other(s) that do not
 - 21 comply with the requirements of this section. The manufacturer shall immediately
 - 22 implement the approved part(s) and submit a revised plan respecting the
 - 23 remaining parts within thirty days after receipt of notification of the [Title of
 - 24 Appropriate Official]'s disapproval. The [appropriate official] shall review a
 - 25 manufacturer's revised plan within thirty days of receipt..
- 26 (3) 240 days after the date of enactment of this Act, complete, on behalf of a
- 27 manufacturer, any portion of the plan that has not been approved.
- 28 (4) The [Title of Appropriate Official] of the [Name of Appropriate Department
- 29 of Agency] shall review the plan three years after the original date of approval
- 30 of the plan and every three years thereafter, and shall require modifications to
- 31 the plan as appropriate.

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2 **SECTION 5. PROHIBITION AND PROPER MANAGEMENT OF MERCURY-**
3 **ADDED VEHICLE COMPONENTS.**

4 A person who sells, gives or otherwise conveys ownership of an end-of-life vehicle to
5 a scrap recycling facility for recycling shall remove all mercury-added switches from
6 such end-of-life vehicle prior to delivery to such facility.

7 Notwithstanding the foregoing paragraph, a scrap recycling facility may agree to
8 accept an end-of-life vehicle (which has not been intentionally flattened, crushed or
9 baled) with mercury-added switches, in which case the scrap recycling facility shall be
10 responsible for removing such switches.

11 It shall be unlawful for any person to represent that mercury switches have been
12 removed from a vehicle or vehicle hulk being sold, given or otherwise conveyed for
13 recycling if that person has not removed such mercury switches [or arranged with another
14 person to remove such switches]

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16 **SECTION 6. PHASE-OUT OF MERCURY-ADDED VEHICLE COMPONENTS**
17 **AND EXEMPTIONS**

18 (a) Phaseout of Mercury-Added Components. - To prevent emissions or other releases
19 of mercury from vehicles, effective two vehicle model years from the date of enactment
20 of this Act, no mercury-added component shall be included as part of a new vehicle
21 offered for sale in [Name of State or the United States].

22 (b) Exemption. - A mercury-added component in a vehicle that is necessary in order
23 to comply with Federal or state health or safety requirements, or for purposes of national
24 security, shall be exempt from the requirements of subsection (a) of this section, provided
25 that:

26 (1) The manufacturer must apply, or reapply, for such exemption to the [Title of
27 Appropriate Official].

28 (2) The application must be in writing, in a form acceptable to the [Title of
29 Appropriate Official], stating the need for an exemption and the legal basis for an
30 exemption. It must include documentation that there is no technically feasible
31 alternative to the use of mercury in the component and that there is no comparable

1 mercury-free component available at reasonable cost to address the health or safety
2 requirement, or national security. "No technically feasible alternative" does not
3 include the use of mercury for the purpose of marketing.

4 (A) The application must include a description of how the manufacturer will
5 insure that a system exists, and how the manufacturer will fund such system, for
6 the proper removal, collection, and recovery of the mercury-added component
7 while the vehicle is in commerce and at the end of the vehicle's useful life.

8 (B) Subject to the issuance of public notice and solicitation of public
9 comment, [appropriate agency] shall, within 90 days, accept or reject the
10 application for exemption.

11 (5) An exemption application may be submitted to [appropriate official], subject
12 to public notice and comment, for safety components not required by federal
13 or state law. An exemption may only be granted upon clear demonstration
14 that:

15 (A) Such components will substantially increase public health and safety
16 considering any impacts the components may have on overall public
17 safety on the roads, and the life-cycle impacts of the mercury use, and

18 (B) That there is no technically feasible alternative to the use of mercury in the
19 component.

20 (4) An exemption granted under this section by the [Title of Appropriate
21 Environmental Official] shall be valid for a period not to exceed two years.

22 (5) Exemptions granted under this section shall be renewable for periods not to
23 exceed two years.

24 (6) If granted an exemption, any vehicle that may contain a mercury-added
25 component shall be labeled by the manufacturer in a manner to clearly inform
26 purchasers that mercury is present in the vehicle, and that the component may not be
27 disposed of or placed in a waste stream destined for disposal until the mercury is
28 removed or reused, recovered, or properly disposed of as a hazardous waste or
29 otherwise managed to ensure that the mercury does not become mixed with other
30 solid waste. The label shall identify the component with sufficient detail so that it
31 may be readily located for removal. This label shall be placed on the doorpost of

1 each vehicle that may contain a mercury-added component and be constructed of
2 materials that are sufficiently durable to remain legible for the useful life of the
3 vehicle.

4 (c) Design for Recycling - Manufacturers, when designing vehicles and their
5 components, shall:

6 (1) to the maximum extent practicable eliminate hazardous substances from their
7 vehicles;

8 (2) insure that their vehicles are designed to be recycled in a safe, cost effective,
9 and environmentally sound manner , using existing technologies and infrastructures;

10 (3) Where a vehicle is found to present environmental risks that make it
11 uneconomical to recycle, the manufacturer shall make appropriate design or
12 manufacturing changes.

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14 **SECTION 7. GENERAL COMPLIANCE WITH OTHER PROVISIONS.**

15 Except as expressly provided in this Act, compliance with this Act shall not exempt a
16 person from compliance with any other law.

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18 **SECTION 8. REGULATIONS.**

19 The [Title of Appropriate Official] of the [Name of Appropriate Department] may
20 promulgate regulations concerning this Act.

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22 **SECTION 9. PUBLIC NOTIFICATION AND COMMENT**

23 The [appropriate state or Federal agency] shall issue public notice and solicit public
24 comment on (1) the removal, replacement, collection, and recovery plans submitted by
25 the vehicle manufacturer(s) submitted pursuant to Section 4 of this Act, and (2) the
26 applications/reapplications for exemptions from the phase-out provisions of Section 6 of
27 this Act. Such notification and solicitation shall be issued within 30 days of receiving a
28 plan/application from the manufacturer(s), giving the public adequate time to comment
29 on the proposals.

1 Public comments received within the 90-day review period of these provisions shall
2 be considered by the [appropriate agency] when making its decision to accept or reject
3 either the plan or the application for exemption.

4
5 **SECTION 10. REPORTING**

6 One year after the implementation of the removal, replacement, collection, and
7 recovery system, and annually thereafter, a manufacturer subject to Section 4 of this Act
8 shall report to the [appropriate agency] concerning the performance of the manufacturer's
9 plan. The report shall include, but not be limited to, the following:

- 10 (a) a detailed description and documentation of the capture rate achieved;
- 11 (b) a plan to implement additional or alternative actions, if necessary to improve
12 the capture rate;
- 13 (c) a listing of the public educational initiatives implemented, including size of
14 audience reached; and
- 15 (d) any changes in the participation of the necessary parties for the plan to be
16 effectively implemented.

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18 **SECTION 11. CIVIL ENFORCEMENT.**

19 Comport to state or federal law.
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21 **SECTION 12. CRIMINAL ENFORCEMENT.**

22 Comport to state or federal law.
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24 **SECTION 13. UNIVERSAL WASTE**

25 The [appropriate Department or Agency] shall [adopt or modify] its rules governing
26 universal hazardous waste as appropriate to promote the collection, transport, recovery,
27 and proper management of mercury-added vehicle components.
28

29 **SECTION 14. PUBLIC EDUCATION AND OUTREACH**

30 (a) Automobile manufacturers shall implement a comprehensive education and
31 outreach program for the general public and the parties willingly participating in the

1 removal, replacement where appropriate, recovery and disposal system established under
2 this Act. This education and outreach program should focus on the hazards related to,
3 and the proper handling of, mercury; the requirements and obligations of individuals,
4 manufacturers, and agencies under this Act; and the details of the system established
5 under this Act.

6 (b) In collaboration with automobile manufacturers, the [appropriate agency] shall
7 supplement this education and outreach program with an assistance program for
8 businesses that might participate in the collection, replacement where appropriate,
9 recovery and disposal system established under this Act.

10 (c) Willingly participating parties shall implement a public education and outreach
11 program focused on their participation in the collection, replacement (where applicable),
12 recovery and disposal system established under this Act.

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14 **SECTION 15. GOVERNMENT PROCUREMENT**

15 Notwithstanding other policies and guidelines for the procurement of vehicles, the
16 [state/Fed. procurement office] shall, within 1 year of the effective date of this section,
17 revise its policies, rules and procedures to give priority and preference to the purchase of
18 mercury-free vehicles taking into consideration competition, price, availability and
19 performance.