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LC02132/SUB A/2
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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2005

A N A C T

RELATING TO HEALTH AND SAFETY -- MERCURY REDUCTION AND EDUCATION ACT

Introduced By: Representatives Ginaitt, Handy, and Long

Date Introduced: March 01, 2005

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

SECTION 1. Sections 23-24.9-9 and 23-24.9-10 of the General Laws in Chapter 23-24.9 entitled "Mercury Reduction and Education Act" are hereby amended to read as follows:

23-24.9-9. Disposal ban. -- (a) After July 1, 2005, no person shall dispose of mercury-added products in a manner other than by recycling or disposal as hazardous waste. Mercury from mercury-added products may not be discharged to water, wastewater treatment, and wastewater disposal systems except when it is done in compliance with local, state, and federal applicable requirements.

(b) If a formulated mercury-added product is a cosmetic or pharmaceutical product subject to the regulatory requirements relating to mercury of the federal food and drug administration, then the product is exempt from the requirements of this section.

(c) This section shall not apply to: (1) anyone who disposes of a mercury-added button cell battery; or (2) mercury-added components as contained in motor vehicles except as provided in section 23-24.9-10(b)(2) and in accordance with such regulations as may be adopted by the department in order to achieve the purposes of section 23-24.9-10(b)(2); and (3) households disposing of lamps and products containing lamps.

23-24.9-10. Collection of mercury-added products. -- (a) After July 1, 2005, no mercury-added product shall be offered for final sale or use or distribution for promotional purposes in Rhode Island unless the manufacturer either on its own or in concert with other

persons has submitted a plan for a convenient and accessible collection system for such products when the consumer is finished with them and the plan has received approval of the director. Where a mercury-added product is a component of another product, the collection system must provide for removal and collection of the mercury-added component or collection of both the mercury-added component and the product containing it.

(b) (1) This section shall not apply to the collection of mercury-added button cell batteries or mercury-added lamps or products where the only mercury contained in the product comes from a mercury-added button cell battery or a mercury-added lamp; and

~~(2) This section shall not apply to motor vehicles.~~

(2) Mercury-added components in motor vehicles at end-of-life shall be collected and recycled as provided in this subsection. Significant, willful failure to comply with rules and/or regulations to implement the provisions of this section shall constitute, as may be determined by the department, a violation of the ban established in section 23-24.9-9. No scrap recycling facility or other person that receives a flattened, crushed or baled end-of-life vehicle shall be deemed to be in violation of subsection 23-24.9-10(b)(2) and rules and regulations pursuant thereto or section 23-24.9-9 if a mercury switch is found in the vehicle after its acquisition.

For the purposes of subsection, 23-24.9-10(b)(2) the following terms shall have the following meanings: (i) “Capture rate” means the annual removal, collection, and recovery of mercury switches, as a percentage of the total number of mercury switches available for removal from end-of-life vehicles as determined by the Department of Environmental Management. Capture rate shall not include mercury switches that are inaccessible due to significant damage to the motor vehicle in the area where the mercury switch is located; (ii) “Mercury added component” or “Mercury switch” means a mercury-added convenience light switch assembly or capsule from an end-of-life motor vehicle; (iii) “Scrap recycling facility” means a fixed location where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steal, or nonferrous metallic scrap for sale for remelting purposes; and (iv) “Vehicle recycler” means and individual or entity licensed under the provisions of section 42-14.2-3 that engages in the business of acquiring, dismantling, parts recycling from, or destroying six (6) or more end-of-life vehicles in a calendar year.

(A) Manufacturers of motor vehicles sold in Rhode Island that contain mercury switches shall, individually or collectively, establish and implement a collection program for mercury switches to achieve a capture rate of not less than fifty percent (50%) for calendar year 2006, and not less than seventy percent (70%) for calendar year 2007 and each calendar year thereafter

through calendar year 2017. The collection program shall be subject to the following requirements:

(i) On or before September 1, 2005, manufacturers of motor vehicles subject to the collection program requirement shall submit to the department a plan setting forth a proposed collection program. At a minimum, the plan shall:

(I) Explain how capture rate requirements are anticipated to be met through implementation of the plan;

(II) Ensure that mercury switches collected are managed in accordance with the universal waste rules adopted by the department;

(III) Provide the department and scrap recycling facilities and vehicle recyclers with information, training and other technical assistance required to facilitate removal and recycling of mercury switches in accordance with the universal waste rules;

(IV) Make available to the public information concerning services to remove mercury switches in motor vehicles;

(V) The proposed collection program plan shall be subject to the review and approval of the department, which may require adjustments or modifications to the plan.

(ii) By January 1, 2006, manufacturers of motor vehicles subject to the collection program requirement shall implement a collection program plan approved by the department; and

(iii) For the calendar quarter ending March 31, 2006, and each calendar quarter thereafter, not later than forty-five (45) days following the close of the calendar quarter, manufacturers of motor vehicles subject to the collection program requirement shall provide quarterly implementation reports to the department, which reports shall include the number of mercury switches collected and the amount of mercury collected and recycled through the collection program. The report shall further include, but not be limited to: a detailed description and documentation of the capture rate.

(B) In the event that the program set forth in subsection 23-24.9-10(b)(2)(A), does not achieve the specified capture rates for any calendar year, the department shall develop, issue, administer and enforce regulation compelling the manufacturers of motor vehicles sold in Rhode Island that contain mercury switches to undertake a collection program as set forth in this subsection, 23-24.9-10(b)(2)(B). Provided, however, that if the department shall determine that the failure to achieve the required capture rate in any year was the result of a force-majeure, the department may extend the program established pursuant to subsection 23-24.9-10(b)(2)(A) for a period of not less than one calendar quarter and not greater than the number of whole calendar quarters equal to the number of calendar quarters affected by the force-majeure and shall

substitute the capture rates achieved in such calendar quarter(s) for the captures rates achieved in the calendar quarter(s) affected by the force-majeure; the department shall recalculate the annual capture rate for the year affected by the force-majeure using the substitute calendar quarter(s) to determine whether the annual capture rate requirements set forth in subsection 23-24.9-10(b)(2)(A) were met. The total cost of the removal, replacement, collection and recovery system for mercury switches, under this subsection, 23-24.9-10(b)(2)(B), shall be borne by the manufacturer or manufacturers. The total cost shall include, but not be limited to, the following:

(i) A minimum of three dollars ($3.00) for each mercury switch removed by a vehicle recycler or by a scrap recycling facility, as partial compensation for the labor and other costs incurred in the removal of the mercury switch, to be paid to the vehicle recycler or the scrap recycling facility that removed the switch;

(ii) One dollar ($1.00) for each mercury switch removed by a vehicle recycler or by a scrap recycling facility to be paid to the department as partial compensation to the department for costs incurred in administering and enforcing the provisions of this subchapter and providing services related thereto which may include but shall not be limited to:

(I) Training;

(II) Packaging in which to transport mercury switches to recycling, storage or disposal facilities;

(III) Shipping of mercury switches to recycling, storage or disposal facilities;

(IV) Recycling, storage or disposal of the mercury switches;

(V) Public education materials and presentations; and

(VI) Maintenance of appropriate systems and procedures to protect the environment from mercury contamination.

(3) The provisions of subsection 23-24.9-10(b)(2) shall satisfy collection programs and disposal requirements for mercury switches for all motor vehicles sold in the state.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO HEALTH AND SAFETY -- MERCURY REDUCTION AND EDUCATION ACT

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This act would require manufacturers of motor vehicles sold in Rhode Island to establish and implement a collection program for mercury switches.

This act would take effect upon passage.

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