

2016 -- S 2095 AS AMENDED

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LC003651
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO HEALTH AND SAFETY - MERCURY REDUCTION AND EDUCATION
ACT

Introduced By: Senators Ruggerio, Goodwin, Conley, P Fogarty, and Pearson

Date Introduced: January 21, 2016

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Marketing campaign and assessment. (a) The Rhode Island resource
2 recovery corporation (the "corporation") and the department of environmental management (the
3 "department") shall engage in a joint marketing campaign that promotes and assesses the
4 effectiveness of a statewide voluntary collection of mercury-containing lamps for recycling, for
5 the time period prior to January 1, 2020. The department and the corporation may also partner
6 with other manufacturers of mercury-containing lamps on a voluntary basis in this campaign.

7 (b) The marketing campaign shall promote the awareness of the mercury-containing lamp
8 recycling program. The focus of the campaign shall include, but not be limited to, the hazards of
9 mercury-containing lamps, the benefits of recycling mercury-containing lamps, and the locations
10 of sites where mercury-containing lamps may be deposited and collected for recycling. The
11 department, the corporation, and any of the manufacturer partners (collectively referred to herein
12 as the "promoters") may add goals as they deem appropriate.

13 (c) The promoters shall establish set annual goals for the campaign and the recycling
14 program, including but not limited to:

15 (1) The extent of market penetration and consumer knowledge of the campaign;

16 (2) The percentage or other measure of participation by the people of the state in the
17 recycling campaign;

18 (3) An estimate of the total number of mercury-containing lamps in the state at the start

1 of the campaign;

2 (4) The percentages of mercury-containing lamps collected for recycling; and

3 (5) The total amount of mercury-containing lamps remaining in the state for each year of
4 the campaign.

5 (d) The promoters shall collect data on the goals established in subsections (c)(1)
6 through (c)(5) of this section and shall provide a report on the progress made towards such goals
7 to the general assembly on an annual basis, with the first report due on or before April 4, 2017.
8 These reports may also include recommendations for further action in support of the goals of
9 eliminating the presence of mercury-containing lamps in this state.

10 (e) The promoters shall work together to assess, share, and implement technical support
11 on best practices to promote an efficient, safe, and cost-effective collection process.

12 (f) As used herein, the term "mercury-containing lamp" means a general purpose lamp to
13 which mercury is intentionally added during the manufacturing process. A "mercury-containing
14 lamp" does not mean a lamp used for medical, disinfection, treatment or industrial purposes.

15 (g) The general assembly shall review the data provided pursuant to this act no later than
16 January 1, 2020, to determine if the provisions of this act should continue, be modified, revised,
17 or repealed. If the general assembly determines that the provisions of this act should continue,
18 then the general assembly shall subsequently review the provisions of this act no later than
19 September 1, 2022 and every two (2) years thereafter, until such provisions are no longer
20 required.

21 SECTION 2. Sections 23-24.9-2, 23-24.9-3, 23-24.9-9, 23-24.9-10, 23-24.9-15 and 23-
22 24.9-20 of the General Laws in Chapter 23-24.9 entitled "Mercury Reduction and Education Act"
23 are hereby amended to read as follows:

24 **23-24.9-2. Findings.** -- The general assembly has found and hereby declares that:

25 (1) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment;

26 (2) Mercury deposition has proven to be a significant problem in the northeastern United
27 States;

28 (3) Consumption of mercury-contaminated freshwater fish poses a significant public
29 health threat to the residents of Rhode Island;

30 (4) In order to address these real threats to public health and the environment, the state
31 has been and should continue to actively cooperate with other states in the region to help
32 minimize harm resulting from mercury in food, soil, air and water;

33 (5) According to a 2004 study by the U.S. environmental protection agency titled
34 "International mercury market study and the role and impact of U.S. environmental policy," more

1 than ten percent (10%) of the estimated mercury reservoir in the United States is in thermostats;

2 (6) In 1998, thermostat manufacturers, General Electric, Honeywell, and White Rodgers
3 established the thermostat recycling corporation "(TRC)", a non-profit corporation to facilitate
4 recycling of mercury thermostats nationwide. The TRC originally operated solely through
5 wholesalers but has since expanded to enable collection by contractors, household hazardous
6 waste facilities, and retailers. The TRC is a voluntary program in all states, but several states
7 require wholesalers to act as collection points for waste mercury thermostats. Participation in the
8 TRC is likely the simplest, least-cost means of complying;

9 (7) The manufacturers of mercury-containing thermostats, with the cooperation of the
10 department, should be encouraged to submit a single unified plan for the collection of mercury-
11 containing thermostats, the cost of which should be appropriately apportioned between
12 participating manufacturer; and

13 (8) The manufacturers of mercury-containing lamps, with the cooperation of the
14 corporation in collaboration with the department, should be encouraged to submit a single unified
15 plan for the collection of mercury-containing lamps, the cost of which should be appropriately
16 apportioned between participating manufacturers; and

17 ~~(8)~~(9) The intent of this chapter is to achieve significant reductions in environmental
18 mercury by encouraging the establishment of effective waste reduction, recycling, management
19 and education programs.

20 **23-24.9-3. Definitions.** -- For the purpose of this chapter:

21 (1) "Component" means a mercury-added product which is incorporated into another
22 product to form a fabricated mercury-added product, including, but not limited to, electrical
23 switches and lamps.

24 (2) "Corporation" means the Rhode Island resource recovery corporation created and
25 established pursuant to chapter 19 of title 23.

26 (3) "Covered entity" means any person who presents to a collection facility that is
27 included in an approved plan:

28 (i) Any number of compact fluorescent mercury-containing lamps; or

29 (ii) Ten (10) or fewer mercury-containing lamps that are not compact fluorescent lamps
30 and are not from a large use application.

31 ~~(2)~~(4) "Department" means the department of environmental management.

32 ~~(3)~~(5) "Director" means the director of the department of environmental management or
33 any subordinate or subordinates to whom the director has delegated the powers and duties vested
34 in him or her by this chapter.

1 ~~(4)~~(6) "Fabricated mercury-added product" means a product that consists of a
2 combination of individual components that combine to make a single unit, including, but not
3 limited to, mercury-added measuring devices, lamps and switches to which mercury or a mercury
4 compound is intentionally added in order to provide a specific characteristic, appearance, or
5 quality, or to perform a specific function or for any other reason.

6 ~~(5)~~(7) "Formulated mercury-added product" means a product that includes, but is not
7 limited to, laboratory chemicals, cleaning products, cosmetics, pharmaceuticals and coating
8 materials that are sold as a consistent mixture of chemicals to which mercury or a mercury
9 compound is intentionally added in order to provide a specific characteristic, appearance, or
10 quality, or to perform a specific function or for any other reason.

11 ~~(6)~~(8) "Healthcare facility" means any hospital, nursing home, extended care facility,
12 long-term care facility, clinical or medical laboratory, state or private health or mental institution,
13 clinic, physician's office or health maintenance organization.

14 ~~(7)~~(9) "Manufacturer" means any person, firm, association, partnership, corporation,
15 governmental entity, organization, combination or joint venture that produces a mercury-added
16 product or an importer or domestic distributor of a mercury-added product produced in a foreign
17 country. In the case of a multi-component mercury-added product, the manufacturer is the last
18 manufacturer to produce or assemble the product. If the multi-component product is produced in
19 a foreign country, the manufacturer is the importer or domestic distributor. In the case of
20 mercury-containing thermostats, the manufacturer is the original equipment manufacturer who
21 sells or sold a mercury-containing thermostat under a brand or label it owns, or is or was licensed
22 to use a mercury-containing thermostat produced by other suppliers.

23 (10) In the case of mercury-containing lamps, the manufacturer is a person who:

24 (i) Manufactures or manufactured a mercury-containing lamp under its own brand or
25 label for sale in the state;

26 (ii) Sells in the state under its own brand or label a mercury-containing lamp produced by
27 another supplier;

28 (iii) Owns a brand that it licenses, or licensed to another person for use on a mercury-
29 containing lamp sold in the state;

30 (iv) Imports into the United States for sale in the state a mercury-containing lamp
31 manufactured by a person without a presence in the United States;

32 (v) Manufactures a mercury-containing lamp for sale in the state without affixing a brand
33 name; or

34 (vi) Assumes the responsibilities, obligation, and liabilities of a manufacturer as defined

1 [under paragraphs \(i\) through \(v\) of this subsection.](#)

2 [\(11\) "Mercury-containing lamp" means a general purpose lamp to which mercury is](#)
3 [intentionally added during the manufacturing process. "Mercury-containing lamp" does not mean](#)
4 [a lamp used for medical, disinfection, treatment or industrial purposes.](#)

5 ~~(8)~~[\(12\)](#) "Mercury-added button cell battery" means a button cell battery to which the
6 manufacturer intentionally introduces mercury for the operation of the battery.

7 ~~(9)~~[\(13\)](#) "Mercury-added novelty" means a mercury-added product intended mainly for
8 personal or household enjoyment or adornment. Mercury-added novelties include, but are not
9 limited to, items intended for use as figurines, adornments, toys, games, cards, ornaments, yard
10 statues and figures, candles, jewelry, holiday decorations, items of apparel (including footwear),
11 or similar products.

12 ~~(10)~~[\(14\)](#) "Mercury-added product" means a product, commodity, chemical or a product
13 with a component that contains mercury or a mercury compound intentionally added to the
14 product, commodity, chemical or component in order to provide a specific characteristic,
15 appearance, or quality, or to perform a specific function or for any other reason. These products
16 include formulated mercury-added products and fabricated mercury-added products.

17 ~~(11)~~[\(15\)](#) "Mercury fever thermometer" means a mercury-added product that is used for
18 measuring body temperature.

19 ~~(12)~~[\(16\)](#) "Mercury-containing thermostat" means a product or device that uses a mercury
20 switch to sense and control room temperature through communication with heating, ventilating,
21 or air-conditions equipment. "Mercury-containing thermostat" includes thermostats used to sense
22 and control room temperature in residential, commercial, industrial, and other buildings, but does
23 not include a thermostat used to sense and control temperature as part of a manufacturing process.

24 ~~(13)~~[\(17\)](#) "Person" means an individual, trust, firm, joint stock company, corporation
25 (including a government corporation), partnership, association, the federal government or any
26 agency or subdivision thereof, a state, municipality, commission, political subdivision of a state,
27 or any interstate body.

28 ~~(14)~~[\(18\)](#) "Thermostat retailer" means a person who sells thermostats of any kind directly
29 to homeowners or other nonprofessionals through any selling or distribution mechanism,
30 including, but not limited to, sales using the internet or catalogues. A retailer may also be a
31 wholesaler if it meets the definition of wholesaler.

32 ~~(15)~~[\(19\)](#) "Thermostat wholesaler" means a person that is engaged in the distribution and
33 wholesale sale of thermostats and other heating, ventilation, and air-conditioning components to
34 contractors who install heating, ventilation, and air-conditioning components.

1 ~~(16)~~(20) "Contractor" means a person engaged in the business of installation, service, or
2 removal of heating, ventilation, and air-conditioning components.

3 ~~(17)~~(21) "Qualified contractor" means a person engaged in the business of installation,
4 service, or removal of heating, ventilation, and air-conditioning components who employs seven
5 (7) or more service technicians or installers or who is located in an area outside of an urban area,
6 as defined by the United States bureau of the census.

7 ~~(18)~~(22) "Local government collections" means collections completed by household
8 hazardous waste facilities, solid waste management agencies, environmental management
9 agencies, or the department of health.

10 **23-24.9.9. Disposal ban.** -- (a) Except as otherwise provided for in this chapter, after
11 July 1, 2006, no person shall dispose of mercury-added products in a manner other than by
12 recycling or disposal as hazardous waste. Mercury from mercury-added products may not be
13 discharged to water, wastewater treatment, and wastewater disposal systems except when it is
14 done in compliance with local, state, and federal applicable requirements.

15 (b) If a formulated mercury-added product is a cosmetic or pharmaceutical product
16 subject to the regulatory requirements relating to mercury of the federal Food and Drug
17 Administration, then the product is exempt from the requirements of this section.

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

23 (d) The restrictions on the disposal of mercury-added components in motor vehicles shall
24 be as set forth in subsection (a) of this section effective January 1, 2006, and shall be
25 implemented as provided for in subdivision (c)(2) of this section and subdivision 23-24.9-
26 10(b)(2).

27 (e) The restrictions on amalgam waste recycling and disposal shall be implemented as
28 provided for in § 23-24.9-9.3.

29 (f) Any contractor who replaces a mercury-containing thermostat from a building shall
30 recycle the thermostat using its own collection container provided by thermostat manufacturers,
31 or deliver the mercury-containing thermostat to an appropriate wholesaler, retailer or local
32 government collection for recycling.

33 (g) Any contractor who demolishes a building shall remove any mercury-containing
34 thermostats from the building prior to demolition and shall deliver the mercury-containing

1 thermostats to an appropriate wholesaler, retailer or collection location for recycling.

2 (h) Any person who replaces a mercury-containing thermostat from any location in the
3 state that is participating in an energy efficiency and/or weatherization program supported or
4 administered in whole or in part by any department, agency, instrumentality, or political
5 subdivision of the state or conducted as a result of any statutory requirement, including but not
6 limited to, demand-side management pursuant to, [household hazardous waste drop-off event](#) §
7 39-2-1.2, or least-cost procurement pursuant to § 39-1-27.7, shall deliver the mercury-containing
8 thermostats to an appropriate wholesaler, retailer or collection location for recycling.

9 [\(i\) After January 1, 2020, the ban will apply to disposal of mercury-containing lamps.](#)

10 **23-24.9-10. Collection of mercury-added products.** -- (a) After January 1, 2006, no
11 mercury-added product shall be offered for final sale or use or distribution for promotional
12 purposes in Rhode Island unless the manufacturer, either on its own or in concert with other
13 persons, has implemented a system, after review and approval of the [corporation in collaboration](#)
14 [with the](#) director, for the convenient and accessible collection of such products when the
15 consumer is finished with them. ~~Where a mercury added product is a component of another~~
16 ~~product, the collection system must provide for removal and collection of the mercury added~~
17 ~~component or collection of both the mercury added component and the product containing it.~~
18 Mercury-added components in motor vehicles shall be collected and recycled as provided for in
19 subdivision (b)(2) of this section. Mercury-containing thermostats shall be collected and recycled
20 as provided for in § 23-24.9-10.2. [Mercury-containing lamps from covered entities shall be](#)
21 [collected and recycled as provided for in subsection \(b\)\(4\) of this section.](#)

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

25 (2) Mercury-added components in motor vehicles at end-of-life shall be collected and
26 recycled as provided in this subsection. Significant, willful failure to comply with rules and/or
27 regulations to implement the provisions of this section shall constitute, as may be determined by
28 the department, a violation of the ban established in § 23-24.9-9. No scrap recycling facility or
29 other person that receives a flattened, crushed or baled end-of-life vehicle shall be deemed to be
30 in violation of subdivision 23-24.9-10(b)(2) and rules and regulations pursuant thereto or § 23-
31 24.9-9 if a mercury switch is found in the vehicle after its acquisition.

32 For the purposes of subdivision 23-24.9-10(b)(2) the following terms shall have the
33 following meanings: (i) "Capture rate" means the annual removal, collection, and recovery of
34 mercury switches, as a percentage of the total number of mercury switches available for removal

1 from end-of-life vehicles as determined by the department of environmental management.
2 Capture rate shall not include mercury switches that are inaccessible due to significant damage to
3 the motor vehicle in the area where the mercury switch is located; (ii) "Mercury added
4 component" or "Mercury switch" means a mercury-added convenience light switch assembly or
5 capsule from an end-of-life motor vehicle; (iii) "Scrap recycling facility" means a fixed location
6 where machinery and equipment are utilized for processing and manufacturing scrap metal into
7 prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic
8 scrap for sale for remelting purposes; and (iv) "Vehicle recycler" means an individual or entity
9 licensed under the provisions of § 42-14.2-3 that engages in the business of acquiring,
10 dismantling, parts recycling from, or destroying six (6) or more end-of-life vehicles in a calendar
11 year.

12 (A) Manufacturers of motor vehicles sold in Rhode Island that contain mercury switches
13 shall, individually or collectively, establish and implement a collection program for mercury
14 switches to achieve a capture rate of not less than fifty percent (50%) for calendar year 2006, and
15 not less than seventy percent (70%) for calendar year 2007 and each calendar year thereafter
16 through calendar year 2017.

17 (B) The department shall develop, issue, administer and enforce regulation compelling
18 the manufacturers of motor vehicles sold in Rhode Island that contain mercury switches to
19 undertake a collection program as set forth in this subparagraph, 23-24.9-10(b)(2)(B). The
20 department shall determine that the capture rate in each year of the program and shall assess
21 whether any failure to achieve the capture rate was the result of a force-majeure. The department
22 shall report publicly on or before March 31, each year its findings with regard to the capture rate
23 during the prior year. The manufacturer or manufacturers shall pay the total cost of the removal,
24 replacement, collection and recovery system for mercury switches, under this subparagraph, 23-
25 24.9-10(b)(2)(B), to the vehicle recycler or scrap recycling facility that removed the switch. The
26 total cost shall include, but not be limited to a minimum of five dollars (\$5.00) for each mercury
27 switch removed by a vehicle recycler or by a scrap recycling facility, as partial compensation for
28 the labor and other costs incurred in the removal of the mercury switch.

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

31 [\(4\) Effective January 1, 2020, manufacturers of mercury-containing lamps sold in Rhode](#)
32 [Island shall, individually or collectively, establish and implement a statewide collection program,](#)
33 [approved by the corporation in collaboration with the department, for the recycling of mercury-](#)
34 [containing lamps from covered entities.](#)

1 (i) The recycling program required under this subsection must include:

2 (A) Convenient collection locations located throughout the state where mercury-
3 containing lamps from covered entities can be dropped off without cost, including, but not limited
4 to, municipal collection sites and participating retail establishments;

5 (B) Handling and recycling equipment and practices in compliance with the universal
6 waste rules; and

7 (C) Effective education and outreach, including, but not limited to, point-of-purchase
8 signs and other materials provided to retail establishments without costs.

9 (ii) A manufacturer required to implement a statewide collection program under this
10 subsection shall submit its proposed recycling program for review and approval by the
11 corporation in collaboration with the department. The corporation shall solicit public comment on
12 the proposed program before approving or denying the program.

13 (iii) Beginning January 1, 2020, a manufacturer not in compliance with this section is
14 prohibited from offering any mercury-containing lamp for final sale in the state or distributing
15 any mercury-containing lamp in the state. A manufacturer not in compliance with this section
16 shall provide support to retailers to ensure the manufacturer's mercury-containing lamps are not
17 offered for sale, sold at final sale or distributed in the state.

18 (iv) Beginning January 1, 2020, a retailer may not offer for final sale a mercury-
19 containing lamp produced by a manufacturer not in compliance with this section.

20 (v) Beginning in 2020, and biennially thereafter, the corporation shall report to the
21 general assembly on any modifications to the manufacturer recycling programs it intends to make
22 to improve mercury-containing lamp recycling rates and any recommendations for statutory
23 changes needed to facilitate mercury-containing lamp collection and recycling.

24 (vi) Manufacturers of mercury-containing lamps sold in Rhode Island shall individually
25 or collectively enter into an agreement with the corporation to reimburse for reasonable costs
26 directly related to administering the program but not to exceed the cost of one full-time
27 equivalent employee.

28 **23-24.9-15. State procurement preferences for low or nonmercury-added products. -**

29 : (a) Notwithstanding other policies and guidelines for the procurement of equipment,
30 supplies, and other products, the Rhode Island department of administration shall by January 1,
31 2003, revise its policies, rules and procedures to implement the purposes of this chapter.

32 (b) The Rhode Island department of administration shall give priority and preference to
33 the purchase of equipment, supplies, and other products that do not contain mercury-added
34 compounds or components, unless there is no economically feasible nonmercury-added

1 alternative that performs a similar function. In circumstances where a nonmercury-added product
2 is not available, preference shall be given to the purchase of products that contain the least
3 amount of mercury-added to the product necessary for the required performance.

4 (c) State dental insurance contracts negotiated after January 1, 2003, shall provide
5 coverage for non-mercury fillings at no additional expense to the state employee.

6 (d) Mercury-containing lamp purchasing. When making purchasing decisions on
7 mercury-containing lamps, the Rhode Island department of administration shall request
8 information on mercury content, energy use, lumen output and lamp life from potential suppliers
9 and shall issue specifications and make purchasing decisions that favor models at comparable
10 cost with high energy efficiency, lower mercury content and longer lamp life. Information
11 obtained on mercury content, energy use and lamp life must be made available by the Rhode
12 Island department of administration to other purchasers who purchase a large number of mercury-
13 containing lamps. This information must also be posted on the state's publicly accessible website.

14 (e) Extra consideration shall be given to those vendors who provide substitute
15 information on non-mercury lamps like light-emitting diode (LED) that have the same price,
16 specifications, lumen output and lamp life of what is being sought in the bid abstract.

17 **23-24.9-20. Regulations.** -- The department shall promulgate rules and regulations **as**
18 **may be necessary** to implement and carry out the provisions of this chapter.

19 SECTION 3. Section 2 of this act shall take effect on January 1, 2020. All other sections
20 and provisions of 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

- 1 This act would require manufacturers of mercury-containing lamps to establish and
- 2 implement a statewide collection for the recycling of mercury-containing lamps.
- 3 This act would take effect upon passage.

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