It is enacted by the General Assembly as follows:

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

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

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

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

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

(3) An estimate of the total number of mercury-containing lamps in the state at the start
The percentages of mercury-containing lamps collected for recycling; and

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

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

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

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

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


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

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

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

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

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

(5) According to a 2004 study by the U.S. environmental protection agency titled "International mercury market study and the role and impact of U.S. environmental policy," more
than ten percent (10%) of the estimated mercury reservoir in the United States is in thermostats;

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

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

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

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

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

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

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

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

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

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

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

(5) "Director" means the director of the department of environmental management or any subordinate or subordinates to whom the director has delegated the powers and duties vested in him or her by this chapter.
“Fabricated mercury-added product” means a product that consists of a combination of individual components that combine to make a single unit, including, but not limited to, mercury-added measuring devices, lamps and switches to which mercury or a mercury compound is intentionally added in order to provide a specific characteristic, appearance, or quality, or to perform a specific function or for any other reason.

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

“Healthcare facility” means any hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office or health maintenance organization.

“Manufacturer” means any person, firm, association, partnership, corporation, governmental entity, organization, combination or joint venture that produces a mercury-added product or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multi-component mercury-added product, the manufacturer is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the manufacturer is the importer or domestic distributor. In the case of mercury-containing thermostats, the manufacturer is the original equipment manufacturer who sells or sold a mercury-containing thermostat under a brand or label it owns, or is or was licensed to use a mercury-containing thermostat produced by other suppliers.

In the case of mercury-containing lamps, the manufacturer is a person who:

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

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

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

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

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

(vi) Assumes the responsibilities, obligation, and liabilities of a manufacturer as defined...
under paragraphs (i) through (v) of this subsection.

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

(8)(12) "Mercury-added button cell battery" means a button cell battery to which the manufacturer intentionally introduces mercury for the operation of the battery.

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

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

(11)(15) "Mercury fever thermometer" means a mercury-added product that is used for measuring body temperature.

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

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

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

(15)(19) "Thermostat wholesaler" means a person that is engaged in the distribution and wholesale sale of thermostats and other heating, ventilation, and air-conditioning components to contractors who install heating, ventilation, and air-conditioning components.
"Contractor" means a person engaged in the business of installation, service, or removal of heating, ventilation, and air-conditioning components.

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

"Local government collections" means collections completed by household hazardous waste facilities, solid waste management agencies, environmental management agencies, or the department of health.

23-24.9-9. Disposal ban. -- (a) Except as otherwise provided for in this chapter, after July 1, 2006, 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 subdivision 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 subdivision 23-24.9-10(b)(2); and (3) households disposing of lamps and products containing lamps.

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

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

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

(g) Any contractor who demolishes a building shall remove any mercury-containing thermostats from the building prior to demolition and shall deliver the mercury-containing
thermostats to an appropriate wholesaler, retailer or collection location for recycling.

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

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

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 implemented a system, after review and approval of the corporation in collaboration
with the director, for the convenient and accessible collection of such products when the
consumer is finished with them. 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.

Mercury-added components in motor vehicles shall be collected and recycled as provided for in
subdivision (b)(2) of this section. Mercury-containing thermostats shall be collected and recycled
as provided for in § 23-24.9-10.2. **Mercury-containing lamps from covered entities shall be**
collected and recycled as provided for in subsection (b)(4) of this section.

   (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) 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 § 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 subdivision 23-24.9-10(b)(2) and rules and regulations pursuant thereto or § 23-
24.9-9 if a mercury switch is found in the vehicle after its acquisition.

For the purposes of subdivision 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 § 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.

(B) 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 subparagraph, 23-24.9-10(b)(2)(B). The department shall determine that the capture rate in each year of the program and shall access whether any failure to achieve the capture rate was the result of a force-majeure. The department shall report publicly on or before March 31, each year its findings with regard to the capture rate during the prior year. The manufacturer or manufacturers shall pay the total cost of the removal, replacement, collection and recovery system for mercury switches, under this subparagraph, 23-24.9-10(b)(2)(B), to the vehicle recycler or scrap recycling facility that removed the switch. The total cost shall include, but not be limited to a minimum of five dollars ($5.00) 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.

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

(4) Effective January 1, 2020, manufacturers of mercury-containing lamps sold in Rhode Island shall, individually or collectively, establish and implement a statewide collection program, approved by the corporation in collaboration with the department, for the recycling of mercury-containing lamps from covered entities.
(i) The recycling program required under this subsection must include:

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

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

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

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

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

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

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

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

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

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

(b) The Rhode Island department of administration shall give priority and preference to the purchase of equipment, supplies, and other products that do not contain mercury-added compounds or components, unless there is no economically feasible nonmercury-added
alternative that performs a similar function. In circumstances where a nonmercury-added product
is not available, preference shall be given to the purchase of products that contain the least
amount of mercury-added to the product necessary for the required performance.

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

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

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

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

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