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Senate Agriculture/Environment/Natural Resources Committee Substitute
Adopted 8/12/05

Short Title: Mercury Switch Removal-2.

(Public)

Sponsors:

Referred to:

April 6, 2005

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE RELEASE OF MERCURY INTO THE ENVIRONMENT BY THE REMOVAL, COLLECTION, AND RECOVERY OF MERCURY SWITCHES FROM CERTAIN MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 6. Mercury Switch Removal Act of 2005.

"§ 130A-310.50. Short title.

This Part may be cited as the Mercury Switch Removal Act of 2005.

"§ 130A-310.51. Definitions.

As used in this Part:

- (1) "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.
- (2) "End-of-life vehicle" means a vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or scrap metal recycling facility for the purpose of recycling.
- (3) "Manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that is the last person in the production or assembly process of a new vehicle that utilizes mercury switches, or in the case of an imported vehicle, the importer or domestic distributor of the vehicle.

- 1 (4) "Mercury minimization plan" means a plan for removing, collecting,
2 and recovering mercury switches from end-of-life vehicles that is
3 prepared as provided in G.S. 130A-310.53.
- 4 (5) "Mercury switch" means each mercury-containing capsule, commonly
5 known as a "bullet", that is part of a convenience light switch assembly
6 installed in a vehicle.
- 7 (6) "Scrap metal recycling facility" means a fixed location where
8 machinery and equipment are used to process scrap metal into specific
9 grades of scrap metal for sale and whose primary product is scrap iron,
10 scrap steel, or nonferrous metallic scrap.
- 11 (7) "Vehicle" means any passenger automobile or passenger car, station
12 wagon, truck, van, or sport utility vehicle with a gross vehicle weight
13 rating of less than 12,000 pounds.
- 14 (8) "Vehicle recycler" means an individual or entity engaged in the
15 business of acquiring, dismantling, or destroying six or more
16 end-of-life vehicles in a calendar year for the primary purpose of resale
17 of parts of the vehicle.

18 **"§ 130A-310.52. Purpose.**

19 The purpose of this Part is to reduce the quantity of mercury that is released into the
20 environment by removing mercury switches from end-of-life vehicles and by creating a
21 removal, collection, and recovery program for mercury switches that are removed from
22 end-of-life vehicles in this State.

23 **"§ 130A-310.53. Mercury minimization plan.**

24 (a) The Department shall develop a mercury minimization plan as provided in
25 this Part. In preparing the plan, the Department shall consult with manufacturers of
26 vehicles, who may participate in the development of the plan on an advisory basis.

27 (b) The mercury minimization plan shall require a vehicle manufacturer to
28 provide, at a minimum, all of the following:

- 29 (1) The make, model, and year of any vehicle, including current and
30 anticipated future production models, that was sold or offered for sale
31 by the vehicle manufacturer and that may contain one or more mercury
32 switches. For each make, model, and year, the vehicle manufacturer
33 shall provide a description and the location of each mercury switch in
34 the vehicle and all safe and environmentally sound methods for
35 removal of mercury switches from end-of-life vehicles.
- 36 (2) A system to mark end-of-life vehicles that are to be shredded or
37 crushed to indicate the presence or absence of a mercury switch.
- 38 (3) Educational materials to assist a vehicle recycler or a scrap metal
39 recycling facility in undertaking a safe and environmentally sound
40 method for the removal of the mercury switches from end-of-life
41 vehicles. The materials shall include information on hazards related to
42 mercury and on the proper handling of mercury.
- 43 (4) A method for storage and disposal of the mercury switches, including
44 packaging and shipping of mercury switches to permitted recycling,

1 storage, or disposal facilities. To the extent adequate, affordable, and
2 environmentally sound mercury switch disposal technology is
3 unavailable, a method for the temporary storage of mercury switches.

4 (5) A procedure for the transfer of information among entities subject to
5 the mercury minimization plan to enable the Department to confirm
6 compliance with the reporting requirements set out in
7 G.S. 130A-310.56.

8 (c) To the extent practicable, the mercury minimization plan shall utilize the
9 currently available end-of-life vehicle recycling infrastructure. To the extent adequate,
10 affordable, and environmentally sound end-of-life vehicle recycling infrastructure is
11 unavailable, the plan shall provide for the development of this infrastructure.

12 (d) The mercury minimization plan shall provide a method to finance the
13 removal, collection, and recovery of mercury switches installed in vehicles
14 manufactured by each manufacturer and its predecessors and affiliates. In order to
15 ensure that the costs of removal, collection, and recovery of mercury switches are not
16 borne by automobile dealers, consumers, vehicle recyclers, scrap metal recycling
17 facilities, the State or local governments, or other persons who become responsible for
18 end-of-life vehicles, these costs shall be borne by the manufacturers of vehicles sold in
19 the State. The plan shall provide for prompt reimbursement by manufacturers to vehicle
20 recyclers, scrap metal recycling facilities, the Department, and others of any costs
21 incurred for removal, collection, and recovery of mercury switches. Costs shall include,
22 but are not limited to, the following:

23 (1) Five dollars (\$5.00) for each mercury switch removed by a vehicle
24 recycler pursuant to G.S. 130A-310.55(a) as partial compensation for
25 the labor and other costs incurred by a vehicle recycler in the removal
26 of the mercury switch.

27 (2) Five dollars (\$5.00) for each mercury switch removed by a scrap metal
28 recycling facility pursuant to G.S. 130A-310.55(b) as partial
29 compensation for the labor and other costs incurred by a scrap metal
30 recycling facility in the removal of the mercury switch.

31 (3) One dollar (\$1.00) for each mercury switch removed by a vehicle
32 recycler pursuant to G.S. 130A-310.55(a) or by a scrap metal recycling
33 facility pursuant to G.S. 130A-310.55(b) as partial compensation to the
34 Department for costs incurred in administering and enforcing the
35 provisions of this Part.

36 (4) The cost of packaging necessary to store or transport mercury switches
37 to recycling, storage, or disposal facilities.

38 (5) The cost of shipping mercury switches to recycling, storage, or
39 disposal facilities.

40 (6) The cost of recycling, storage, or disposal of mercury switches.

41 (7) The preparation and distribution to vehicle recyclers and scrap metal
42 recycling facilities of the educational materials required by subdivision
43 (3) of subsection (b) of this section.

44 (8) Maintenance of all appropriate record-keeping systems.

1 "§ 130A-310.54. [Reserved.]

2 "§ 130A-310.55. Removal of mercury switches from end-of-life vehicles.

3 (a) A vehicle recycler that is subject to the mercury minimization plan and that
4 conveys ownership of an end-of-life vehicle to a scrap metal recycling facility shall
5 remove all mercury switches identified in the mercury minimization plan prior to
6 delivery of the vehicle to the scrap metal recycling facility. If a mercury switch is
7 inaccessible due to the condition of the vehicle, the fact that the mercury switch remains
8 in the vehicle shall be noted on the vehicle recycler's invoice.

9 (b) A scrap metal recycling facility that is subject to the mercury minimization
10 plan and that accepts an end-of-life vehicle that has not been flattened, crushed, baled,
11 or shredded and that contains mercury switches shall remove the mercury switches
12 before the end-of-life vehicle is flattened, crushed, baled, or shredded unless the
13 mercury switch is inaccessible due to the condition of the vehicle.

14 (c) It shall be unlawful for any person to knowingly flatten, crush, bale, shred, or
15 otherwise alter the condition of a vehicle from which accessible mercury switches have
16 not been removed.

17 (d) A mercury switch is inaccessible if, due to the condition of the vehicle, the
18 switch cannot be removed in accordance with the mercury minimization plan and
19 removal of the switch would significantly increase the risk of a release of mercury into
20 the environment.

21 (e) A vehicle recycler or scrap metal recycling facility that removes mercury
22 switches pursuant to subsection (a) or (b) of this section shall maintain records of:

23 (1) The number of vehicles of each make that are processed for recycling.

24 (2) The number of mercury switches removed from each vehicle make.

25 (3) The number of vehicles processed for recycling.

26 (f) Each vehicle recycler and scrap metal recycling facility that is required to
27 maintain records under subsection (e) of this section shall retain the records for a
28 minimum of three years and shall make the records available for inspection by the
29 Department upon request.

30 (g) It shall be unlawful for a person who is required to remove mercury switches
31 under this Part to willfully fail to do so. It shall be unlawful for a person who is required
32 to make and maintain records under this Part to willfully fail to do so. It shall be
33 unlawful to knowingly make a false report that a mercury switch has been removed
34 from an end-of-life vehicle.

35 (h) Mercury switches that are removed from end-of-life vehicles shall be
36 considered 'universal waste' as defined in 40 Code of Federal Regulations § 273.9 (1
37 July 2004 Edition). Mercury switches that are removed from end-of-life vehicles shall
38 be collected, transported, treated, stored, disposed of, and otherwise handled in
39 accordance with rules adopted by the Commission governing universal waste.

40 (i) Mercury switches shall be removed from end-of-life vehicles so as to achieve
41 a capture rate of at least ninety percent (90%).

42 "§ 130A-310.56. Evaluation of vehicle design changes that affect mercury
43 recyclability; reporting requirements.

1 (a) Each vehicle manufacturer shall, either individually or as part of a group,
2 prepare an annual report that describes in detail the status of vehicle design changes that
3 are intended to facilitate recycling of vehicle components that contain mercury. At a
4 minimum, the report shall include all of the following:

5 (1) For each make and model, a list of all vehicle components that contain
6 mercury for the previous three model years, the current model year,
7 and the next upcoming model year.

8 (2) A description of all design changes that each manufacturer has
9 implemented or will implement to reduce or eliminate vehicle
10 components that contain mercury, the achieved or anticipated amount
11 of each reduction, and when the design change will be implemented.

12 (3) A summary of all policies that each manufacturer has implemented or
13 will implement to ensure that the manufacturers' vehicles are designed
14 to be recycled in a safe, cost-effective, and environmentally sound
15 manner.

16 (4) A summary of any recommendations, complaints, or reports that the
17 manufacturer has received within the previous 12 months from vehicle
18 recyclers, scrap metal recycling facilities, government entities, or other
19 persons, as well as any other information available to the
20 manufacturer, regarding vehicle design features that adversely affect
21 the recyclability of vehicle components that contain mercury.

22 (b) A vehicle manufacturer or group of vehicle manufacturers that submits the
23 report required by subsection (a) of this section may designate any information in the
24 report that constitutes a trade secret, as defined in G.S. 66-152, as confidential
25 information in accordance with G.S. 132-1.2. Information so designated shall be
26 protected as provided in G.S. 130A-304.

27 (c) Each vehicle manufacturer shall submit, either individually or as part of a
28 group, the report required by subsection (a) of this section on or before 1 July of each
29 year.

30 (d) The Department may evaluate the extent to which vehicle design promotes or
31 impedes recycling of vehicle components that contain mercury. The Department may
32 conduct hearings from time to time to receive public comment regarding vehicle design
33 changes that affect recycling of vehicle components that contain mercury. The
34 Department may develop recommendations as to changes in vehicle design that would
35 further promote the recyclability of these components. The Department shall report its
36 findings and recommendations, including any legislative proposals, to the
37 Environmental Review Commission on or before 1 October of each year.

38 (e) Each vehicle manufacturer that is subject to the mercury minimization plan
39 shall prepare, either individually or as part of a group, an annual report on the
40 implementation of the plan. The report shall be submitted to the Department within 90
41 days after the end of the anniversary of the date on which the manufacturer is required
42 to begin implementation of the plan. The report shall include, at a minimum, all of the
43 following:

44 (1) A detailed description and documentation of the capture rate achieved.

1 (2) In the event that a capture rate of at least ninety percent (90%) is not
2 achieved, a description of additional or alternative actions that may be
3 implemented to improve the mercury minimization plan and its
4 implementation.

5 (3) The number of mercury switches collected, the number of end-of-life
6 vehicles containing mercury switches, the number of end-of-life
7 vehicles processed for recycling, and a description of how the mercury
8 switches were managed.

9 (4) A statement that details the costs required to implement the mercury
10 minimization plan.

11 **"§ 130A-310.57. Adoption of rules; administrative procedure; enforcement.**

12 (a) The Department may adopt rules to implement this Part.

13 (b) Chapter 150B of the General Statutes governs implementation of this Part.

14 (c) This Part may be enforced as provided in Part 2 of Article 1 of this Chapter."

15 **SECTION 2.** The Commission for Health Services shall amend 15A NCAC
16 13A .0119 to adopt rules governing the management of waste mercury-containing
17 devices, as defined in the Notice of Proposed Rulemaking published on 12 June 2002 in
18 the Federal Register, Volume 67, Number 113, Pages 40507 through 40528, as
19 universal waste.

20 **SECTION 3.** This act is effective when it becomes law. Each vehicle
21 manufacturer that is subject to the requirements of this act shall provide the information
22 required by G.S. 130A-310.53(b), either individually or as a group of manufacturers, on
23 or before 1 July 2006. The Department shall require each vehicle manufacturer that is
24 subject to the mercury minimization plan to begin implementation of the plan no later
25 than 1 July 2007. This act expires on 1 July 2026.