

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-384
HOUSE BILL 1136**

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.

"§ 130A-310.50. 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.
- (4) "Mercury minimization plan" means a plan for removing, collecting, and recovering mercury switches from end-of-life vehicles that is prepared as provided in G.S. 130A-310.53.
- (5) "Mercury switch" means each mercury-containing capsule, commonly known as a "bullet", that is part of a convenience light switch assembly installed in a vehicle.
- (6) "Scrap metal recycling facility" means a fixed location where machinery and equipment are used to process scrap metal into specific grades of scrap metal for sale and whose primary product is scrap iron, scrap steel, or nonferrous metallic scrap.
- (7) "Vehicle" means any passenger automobile or passenger car, station wagon, truck, van, or sport utility vehicle with a gross vehicle weight rating of less than 12,000 pounds.
- (8) "Vehicle recycler" means an individual or entity engaged in the business of acquiring, dismantling, or destroying six or more end-of-life vehicles in a calendar year for the primary purpose of resale of parts of the vehicle.

"§ 130A-310.51. Purpose.

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

"§ 130A-310.52. Mercury minimization plan.

(a) The Department shall develop and administer a mercury minimization plan to achieve the goal of having a capture rate of at least ninety percent (90%). In preparing the plan, the Department shall consult with manufacturers of vehicles, who shall participate in the development of the plan on an advisory basis. To the extent practicable, the mercury minimization plan shall utilize the currently available end-of-life vehicle recycling infrastructure. To the extent adequate, affordable, and environmentally sound end-of-life vehicle recycling infrastructure is unavailable, the plan shall provide for the development of this infrastructure.

(b) A plan developed under subsection (a) of this section shall include the following:

- (1) A compilation of the make, model, and year of any vehicle that was sold or offered for sale by the vehicle manufacturer and contains one or more mercury switches and a description and the location of each mercury switch in the vehicle. A vehicle manufacturer shall report to the Department the information needed to make the compilation.
- (2) A description of all safe and environmentally sound methods for removal of mercury switches from end-of-life vehicles. A vehicle manufacturer shall report to the Department the information needed to make the description.
- (3) A presumption that if the manufacturer does not know or is uncertain as to whether or not a switch contains mercury, the switch does contain mercury.
- (4) A system to mark end-of-life vehicles that are to be shredded or crushed to indicate the presence or absence of a mercury switch.
- (5) Educational materials to assist a vehicle recycler or a scrap metal recycling facility in undertaking a safe and environmentally sound method for the removal of the mercury switches from end-of-life vehicles. The materials shall include information on hazards related to mercury and on the proper handling of mercury.
- (6) A method for storage and disposal of the mercury switches, including packaging and shipping of mercury switches to permitted recycling, storage, or disposal facilities. To the extent adequate, affordable, and environmentally sound mercury switch disposal technology is unavailable, a method for the temporary storage of mercury switches.

"§ 130A-310.53. Removal of mercury switches from end-of-life vehicles.

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

(b) A scrap metal recycling facility that accepts an end-of-life vehicle that has not been flattened, crushed, baled, or shredded and that contains mercury switches shall remove the mercury switches before the end-of-life vehicle is flattened, crushed, baled, or shredded unless the mercury switch is inaccessible.

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

(d) A vehicle recycler or scrap metal recycling facility that removes mercury switches pursuant to subsection (a) or (b) of this section shall make quarterly reports to the Department on the following:

- (1) The number of vehicles that it processed for recycling.
- (2) The number of vehicles from which it removed a mercury switch by make.

(3) The number of vehicles for which it could not remove the mercury switch because the switch was inaccessible.

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

"§ 130A-310.54. Funds to implement plan.

(a) The Mercury Pollution Prevention Account is established in the Department. Revenue is credited to the Account from the certificate of title fee under G.S. 20-85.

(b) Revenue in the Mercury Pollution Prevention Account shall be used to reimburse the Department and others for costs incurred in implementing the mercury minimization plan. The reimbursable costs are:

(1) Five dollars (\$5.00) for each mercury switch removed by a vehicle recycler or scrap metal recycling facility pursuant to this Article.

(2) Costs incurred by the Department in administering the plan.

(c) The Department shall reimburse vehicle recyclers and scrap metal recycling facilities based on the quarterly reports submitted under G.S. 130A-310.53. The Department may request any information needed to determine the accuracy of the reports.

"§ 130A-310.55. Violations of Article; enforcement.

(a) It is unlawful for a person to do any of the following:

(1) Knowingly flatten, crush, bale, shred, or otherwise alter the condition of a vehicle from which accessible mercury switches have not been removed, in any manner that would prevent or significantly hinder the removal of a mercury switch.

(2) Willfully fail to remove a mercury switch when the person is required to do so.

(3) Knowingly make a false report that a mercury switch has been removed from an end-of-life vehicle.

(4) Obtain a mercury switch from another source and falsely report that it was removed from a vehicle processed for recycling.

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

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

(a) Each vehicle manufacturer shall, either individually or as part of a group, submit an annual report to the Department that describes in detail the status of vehicle design changes that are intended to facilitate recycling of vehicle components that contain mercury. The report is due on or before 1 July. At a minimum, the report shall include all of the following:

(1) For each make and model for the upcoming model year, a list of all vehicle components that contain mercury.

(2) A description of all design changes that each manufacturer has implemented for the upcoming model year or plans to implement in future model years to reduce or eliminate vehicle components that contain mercury, the achieved or anticipated amount of each reduction.

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

(4) A summary of any recommendations, complaints, or reports that the manufacturer has received within the previous calendar year from vehicle recyclers, scrap metal recycling facilities, government entities, or other persons, as well as any other information available to the

manufacturer, regarding vehicle design features that adversely affect the recyclability of vehicle components that contain mercury.

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

(c) The Department may evaluate the extent to which vehicle design promotes or impedes recycling of vehicle components that contain mercury. The Department may conduct hearings from time to time to receive public comment regarding vehicle design changes that affect recycling of vehicle components that contain mercury. The Department may develop recommendations as to changes in vehicle design that would further promote the recyclability of these components. If the Department develops recommendations pursuant to this subsection, it shall report these recommendations, together with its findings and any legislative proposals, to the Environmental Review Commission.

"§ 130A-310.57. Report on plan.

The Department shall publish an annual report on the mercury minimization plan on or before November 1. The report shall include, at a minimum, all of the following:

- (1) A detailed description and documentation of the capture rate achieved.
- (2) In the event that a capture rate of at least ninety percent (90%) is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury minimization plan and its implementation.
- (3) The number of mercury switches collected, the number of end-of-life vehicles containing mercury switches, the number of end-of-life vehicles processed for recycling, and a description of how the mercury switches were managed.
- (4) A statement that details the costs required to implement the mercury minimization plan.

"§ 130A-310.58. Adoption of rules; administrative procedure.

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

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

SECTION 2. If Senate Bill 622, 2005 General Assembly, becomes law, then G.S. 20-85, as amended by Section 44.1 of that act, reads as rewritten:

"§ 20-85. Schedule of fees.

(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

- (1) Each application for certificate of title ~~\$39.00~~\$40.00
- (2) Each application for duplicate or corrected certificate of title ~~14.00~~15.00
- (3) Each application of reposessor for certificate of title ~~14.00~~15.00
- (4) Each transfer of registration 15.00
- (5) Each set of replacement registration plates 15.00
- (6) Each application for duplicate registration card..... 15.00
- (7) Each application for recording supplementary lien..... ~~14.00~~15.00
- (8) Each application for removing a lien from a certificate of title ~~14.00~~15.00
- (9) Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale..... ~~14.00~~15.00
- (10) Each application for a salvage certificate of title made by an insurer 15.00

(11) Each set of replacement Stock Car Racing Theme plates issued under G.S. 20-79.4 25.00.

(a1) ~~An additional one~~One dollar (\$1.00) of the fee shall be imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section. ~~The fees collected pursuant to this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents.~~ An additional one dollar (\$1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Pollution Prevention Account in the Department of Environment and Natural Resources.

(b) The fees collected under subdivisions (a)(1) through (a)(9) of this section shall be credited to the North Carolina Highway Trust Fund. The fees collected under subdivision (a)(10) of this section shall be credited to the Highway Fund. Fifteen dollars (\$15.00) of each title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5.

(c) The Division shall not collect a fee for a certificate of title for a motor vehicle entitled to a permanent registration plate under G.S. 20-84."

SECTION 3. The Commission for Health Services shall amend 15A NCAC 13A .0119 to adopt rules governing the management of waste mercury-containing devices, as defined in the Notice of Proposed Rulemaking published on 12 June 2002 in the Federal Register, Volume 67, Number 113, Pages 40507 through 40528, as universal waste.

SECTION 4. Sections 1, 3, and 4 of this act are effective when this act becomes law, except that G.S. 130A-310.53, 130A-310.54(c), and 130A-310.55 become effective 1 July 2006. Section 2 of this act becomes effective 1 October 2005. Each vehicle manufacturer that is subject to the requirements of this act shall provide the information required by G.S. 130A-310.52(b), either individually or as a group of manufacturers, on or before 1 January 2006. This act expires on 1 July 2026.

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:22 p.m. this 13th day of September, 2005