

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1136

Short Title: Mercury Switch Removal-2. (Public)

Sponsors: Representatives Culpepper, Hackney, Hunter (Primary Sponsors);
Alexander, Carney, Faison, Insko, Luebke, Weiss, and Wright.

Referred to: Environment and Natural Resources.

April 6, 2005

A BILL TO BE ENTITLED
AN ACT TO REDUCE THE RELEASE OF MERCURY IN 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.
- (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

1 installed in a vehicle. An antilock braking system assembly may
2 contain more than one mercury switch.

3 (6) "Scrap metal recycling facility" means a fixed location where
4 machinery and equipment are used to process scrap metal into specific
5 grades of scrap metal for sale and whose primary product is scrap iron,
6 scrap steel, or nonferrous metallic scrap.

7 (7) "Vehicle" means any passenger automobile or passenger car, station
8 wagon, truck, van, or sport utility vehicle with a gross vehicle weight
9 rating of less than 12,000 pounds.

10 (8) "Vehicle recycler" means an individual or entity engaged in the
11 business of acquiring, dismantling, or destroying six or more
12 end-of-life vehicles in a calendar year for the primary purpose of resale
13 of parts of the vehicle.

14 **"§ 130A-310.52. Purpose.**

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

19 **"§ 130A-310.53. Mercury minimization plan.**

20 (a) Every manufacturer of vehicles sold within this State shall develop a mercury
21 minimization plan prepared pursuant to this section and submit the plan to the
22 Department for review and approval pursuant to G.S. 130A-310.54. Manufacturers of
23 vehicles may develop and submit a plan either individually or as part of a group of
24 manufacturers. A manufacturer shall not be required to develop or implement a mercury
25 minimization plan if the manufacturer demonstrates to the satisfaction of the
26 Department that there is no significant risk of a release of mercury from any vehicle
27 manufactured by the manufacturer.

28 (b) The mercury minimization plan prepared and submitted pursuant to this
29 section shall include at a minimum all of the following:

30 (1) The make, model, and year of any vehicle, including current and
31 anticipated future production models, that are sold or offered for sale
32 by the vehicle manufacturer and that may contain one or more mercury
33 switches. For each make, model, and year the vehicle manufacturer
34 shall provide a description and the location of each mercury switch in
35 the vehicle and all safe and environmentally sound methods for
36 removal of mercury switches from end-of-life vehicles. If the
37 manufacturer does not know or is uncertain as to whether or not a
38 switch contains mercury, the plan shall be based on a presumption that
39 the switch does contain mercury.

40 (2) A system to mark end-of-life vehicles that are to be shredded or
41 crushed to indicate the presence or absence of a mercury switch.

42 (3) Educational materials to assist a vehicle recycler or a scrap metal
43 recycling facility in undertaking a safe and environmentally sound
44 method for the removal of the mercury switches from end-of-life

1 vehicles. The materials shall include information on hazards related to
2 mercury and on the proper handling of mercury.

3 (4) A proposed method for storage and disposal of the mercury switches,
4 including packaging and shipping of mercury switches to permitted
5 recycling, storage, or disposal facilities. To the extent adequate,
6 affordable, and environmentally sound mercury switch disposal
7 technology is unavailable, the plan shall provide for the temporary
8 storage of mercury switches.

9 (5) A proposed procedure for the transfer of information among entities
10 subject to the mercury minimization plan to enable vehicle
11 manufacturers and the Department to comply with the reporting
12 requirements set out in G.S. 130A-310.56.

13 (6) A proposal to implement and finance the plan in accordance with
14 subsection (d) of this section.

15 (c) To the extent practicable, a mercury minimization plan shall utilize the
16 currently available end-of-life vehicle recycling infrastructure. To the extent adequate,
17 affordable, and environmentally sound end-of-life vehicle recycling infrastructure is
18 unavailable, the plan shall provide for the development of this infrastructure.

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

30 (1) A minimum of five dollars (\$5.00) for each mercury switch removed
31 by a vehicle recycler pursuant to G.S. 130A-310.55(a) as partial
32 compensation for the labor and other costs incurred by a vehicle
33 recycler in the removal of the mercury switch.

34 (2) A minimum of five dollars (\$5.00) for each mercury switch removed
35 by a scrap metal recycling facility pursuant to G.S. 130A-310.55(b) as
36 partial compensation for the labor and other costs incurred by a scrap
37 metal recycling facility in the removal of the mercury switch.

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

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

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

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

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

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

8 (e) Manufacturers of vehicles sold within this State shall reimburse vehicle
9 recyclers or scrap metal recycling facilities for each mercury switch removed, collected,
10 and recovered as provided in this section. Manufacturers shall reimburse vehicle
11 recyclers or scrap metal recycling facilities that maintain the records required by
12 G.S. 130A-310.55 for each mercury switch as provided in this section without regard to
13 the date on which the mercury switch is removed, collected, or recovered.

14 (f) Vehicle manufacturers shall indemnify, defend, and hold harmless vehicle
15 recyclers and scrap metal recycling facilities for any liability arising from the release of
16 mercury from the mercury switches.

17 **"§ 130A-310.54. Plan approval and implementation.**

18 (a) The Department shall review a mercury minimization plan within 120 days
19 after receiving the plan. As a part of its review the Department shall consider comments
20 received from vehicle recyclers, persons who operate scrap metal recycling facilities,
21 and other interested parties. The Department may approve or disapprove the entire plan
22 or may approve part of the plan and disapprove the remainder of the plan. If the
23 Department approves the plan in its entirety, the manufacturer shall begin
24 implementation of the plan within 30 days unless the Department approves a later
25 implementation date. If the Department disapproves the plan in its entirety, the
26 Department shall notify the manufacturer of the reasons for the disapproval. The
27 manufacturer shall submit a revised mercury minimization plan within 30 days. If the
28 Department approves a mercury minimization plan in part, the manufacturer shall
29 implement the approved parts of the mercury minimization plan within 30 days unless
30 the Department approves a later implementation date and shall submit a revision of
31 those parts of the plan that are disapproved within 30 days. Any part of a mercury
32 minimization plan that is not approved or disapproved within 120 days shall be deemed
33 approved, and the manufacturer shall begin implementation within 30 days.

34 (b) A manufacturer must obtain approval of all required parts of a mercury
35 minimization plan within 240 days of the date on which the manufacturer is required to
36 submit a plan for review under this Part. If a manufacturer fails to obtain approval of all
37 required parts of a mercury minimization plan within the 240 days, the Department shall
38 prepare a plan, notify the manufacturer of the plan, and direct the manufacturer to begin
39 implementation of the plan within 30 days.

40 (c) The Department may review an approved mercury minimization plan and
41 recommend or require the manufacturer to modify the plan at any time upon finding that
42 the approved mercury minimization plan as implemented no longer meets the
43 requirements of this Part.

44 **"§ 130A-310.55. Removal of mercury switches from end-of-life vehicles.**

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

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

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

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

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

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

22 (2) The number of mercury switches removed from each vehicle make,
23 model, and year.

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

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

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

34 (h) Mercury switches that are removed from end-of-life vehicles shall be
35 collected, stored, transported, and otherwise handled in accordance with the approved
36 mercury minimization plan approved and the requirements of Part 2 of this Article.

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

39 **"§ 130A-310.56. Evaluation of vehicle design changes that affect mercury**
40 **recyclability; reporting requirements.**

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

- 1 (1) For each make and model, a list of all vehicle components that contain
2 mercury for the previous three model years, the current model year,
3 and the next upcoming model year.
- 4 (2) A description of all design changes that each manufacturer has
5 implemented or will implement to reduce or eliminate vehicle
6 components that contain mercury, the achieved or anticipated amount
7 of each reduction, and when the design change will be implemented.
- 8 (3) A summary of all policies that each manufacturer has implemented or
9 will implement to ensure that the manufacturers' vehicles are designed
10 to be recycled in a safe, cost-effective, and environmentally sound
11 manner.
- 12 (4) A summary of any recommendations, complaints, or reports that the
13 manufacturer has received within the previous 12 months from vehicle
14 recyclers, scrap metal recycling facilities, government entities, or other
15 persons, as well as any other information available to the
16 manufacturer, regarding vehicle design features that adversely affect
17 the recyclability of vehicle components that contain mercury.
- 18 (b) Each vehicle manufacturer shall submit, either individually or as part of a
19 group, the report required by subsection (a) of this section on or before 1 July of each
20 year.
- 21 (c) The Department may evaluate the extent to which vehicle design promotes or
22 impedes recycling of vehicle components that contain mercury. The Department may
23 conduct hearings from time to time to receive public comment regarding vehicle design
24 changes that affect recycling of vehicle components that contain mercury. The
25 Department may develop recommendations as to changes in vehicle design that would
26 further promote the recyclability of these components. The Department shall report its
27 findings and recommendations, including any legislative proposals, to the
28 Environmental Review Commission on or before 1 October of each year.
- 29 (d) Each vehicle manufacturer that is required to implement a mercury
30 minimization plan shall prepare, either individually or as part of a group, an annual
31 report on the implementation of the plan. The report shall be submitted to the
32 Department within 90 days after the end of the anniversary of the date on which the
33 manufacturer is required to begin implementation of the plan. The report shall include,
34 at a minimum, all of the following:
- 35 (1) A detailed description and documentation of the capture rate achieved.
36 (2) In the event that a capture rate of at least ninety percent (90%) is not
37 achieved, a description of additional or alternative actions that may be
38 implemented to improve the mercury minimization plan and its
39 implementation.
- 40 (3) The number of mercury switches collected, the number of end-of-life
41 vehicles containing mercury switches, the number of end-of-life
42 vehicles processed for recycling, and a description of how the mercury
43 switches were managed.

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

3 **"§ 130A-310.57. Adoption of rules; administrative procedure; enforcement.**

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

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

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

7 **SECTION 2.** G.S. 130A-310.53, as enacted by Section 1 of this act,
8 becomes effective 1 January 2006. G.S. 130A-310.56 becomes effective 1 July 2007.

9 All other provisions of Part 6 of Article 9 of Chapter 130A of the General Statutes, as
10 enacted by Section 1 of this act and Section 2 of this act, become effective when this act
11 becomes law. This act expires on 1 July 2026.