



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB7300

Introduced 5/12/2004, by Rep. Karen May

SYNOPSIS AS INTRODUCED:

New Act

Creates the Mercury-Free Vehicle Act. Provides that every manufacturer of vehicles sold within the State shall, individually or as part of a group, submit a plan to remove, collect, and recover mercury switches to the Environmental Protection Agency for review and approval. Sets forth procedures for the removal, replacement, collection, and recovery of vehicle mercury switches and for obtaining Agency approval. Provides that the total cost of the removal, replacement, collection, and recovery system for mercury switches shall be borne by the manufacturer. Provides that no mercury-added component shall be included as part of a new vehicle offered for sale in the State.

LRB093 22136 RAS 50897 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning environmental safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Mercury-Free Vehicle Act.

6 Section 5. Legislative findings. The General Assembly
7 finds:

8 (1) That mercury is a persistent and toxic pollutant
9 that bioaccumulates in the environment.

10 (2) That 41 states, including Illinois, have issued
11 fish advisories that warn certain individuals to restrict
12 or avoid consuming fish from bodies of water contaminated
13 with mercury.

14 (3) That the United States Food and Drug Administration
15 has advised pregnant women and women of childbearing age
16 who may become pregnant not to eat shark, swordfish, king
17 mackerel, and tilefish due to methyl mercury
18 contamination.

19 (4) That according to estimates of the National
20 Research Council, over 60,000 babies are born annually at
21 risk for adverse neurodevelopment effects from in utero
22 exposure to methyl mercury resulting from the consumption
23 of mercury contaminated fish. These children will have to
24 struggle to keep up in school and might require remedial
25 classes or special education.

26 (5) That recent findings show historic and current use
27 of mercury in automobiles can cause the release of as much
28 as 10 tons of mercury into the environment each year. Based
29 on the automobile industry's own data, vehicles currently
30 on the road in North America contain an estimated 150 to
31 200 tons of mercury.

32 (6) Pollution prevention is a more desirable strategy

1 than waste management and pollution control. Preventing
2 mercury or mercury-containing components from entering
3 thermal combustion units is an effective way to reduce
4 mercury emissions into the environment.

5 (7) Vehicle mercury switch collection programs are
6 being established across the country to protect human
7 health and the environment.

8 Section 10. Purpose. The purpose of this Act is to reduce
9 the quantity of mercury in the environment by (i) removing
10 mercury from vehicles in commerce and end-of-life vehicles in
11 Illinois; (ii) creating a collection and recovery program for
12 mercury switches removed from vehicles in Illinois; (iii)
13 establishing a system to store the mercury collected and
14 recovered from vehicle components in the event that
15 environmentally appropriate management technologies are not
16 available; and (iv) designing future vehicles for maximum
17 environmental protection and recyclability at the end of their
18 useful lives by implementing a design for recycling that
19 includes phasing out the use of mercury in future vehicle
20 models.

21 Section 15. Definitions. For the purposes of this Act:

22 "Agency" means the Illinois Environmental Protection
23 Agency.

24 "Mercury-added component" means a component that contains
25 mercury that was intentionally added to a vehicle in order to
26 provide a specific characteristic, appearance, or quality, to
27 perform a specific function, or for any other reason. Such
28 components may include, but are not limited to, switches,
29 sensors, lights, and navigational systems.

30 "Manufacturer" means any person, firm, association,
31 partnership, corporation, governmental entity, organization,
32 combination, or joint venture that is the last person to
33 produce or assemble a new vehicle that uses mercury-added
34 components or, in the case of an imported vehicle, the importer

1 or domestic distributor of such vehicle.

2 "Mercury-added switch" means a light switch or an ABS brake
3 system switch installed by an automotive manufacturer in a
4 motor vehicle.

5 "Scrap recycling facility" means a fixed location where
6 machinery and equipment are used for processing and
7 manufacturing scrap metal into prepared grades and whose
8 principal product is scrap iron, scrap steel, or nonferrous
9 metallic scrap that is for sale for remelting purposes.

10 "Vehicle recycler" means any individual or entity engaged
11 in the business of acquiring, dismantling, or destroying 6 or
12 more vehicles in a calendar year for the primary purpose of
13 resale of the parts.

14 "Vehicle in commerce" means any vehicle offered for sale by
15 a dealer or registered in Illinois to be operated on public
16 roads and highways.

17 "End-of-life vehicle" means any vehicle that is sold,
18 given, or otherwise conveyed to a vehicle recycler or scrap
19 recycling facility for the purpose of recycling.

20 "Capture rate" means removal, collection, and recovery as a
21 percentage of the total mercury available from vehicles in
22 commerce and end-of-life vehicles annually.

23 "Manufacturer-dealer warranty program" means an
24 arrangement between a manufacturer and its franchisee, whereby
25 the manufacturer agrees to reimburse the franchisee at
26 established rates for labor or parts necessary to repair a
27 vehicle pursuant to the manufacturer's original equipment
28 warranty to the original purchaser of the vehicle.

29 Section 20. Removal, replacement, collection, and
30 recovery.

31 (a) Within 90 days after the effective date of this Act,
32 every manufacturer of vehicles sold in Illinois shall,
33 individually or as part of a group, submit to the Agency for
34 review and approval a plan to remove, collect, and recover
35 mercury switches.

1 (b) Vehicle manufacturers shall develop and implement a
2 system to remove, replace (where possible), collect, and
3 recover mercury switches from vehicles in commerce and
4 end-of-life vehicles. For vehicles in commerce, the system
5 shall provide for the removal, collection, and recovery of
6 mercury switches and shall replace them with mercury-free
7 alternatives. Where possible, the system shall also provide for
8 the removal, collection, and recovery of mercury switches from
9 end-of-life vehicles. The removal, replacement (where
10 possible), collection, and recovery system shall include, at a
11 minimum, the following:

12 (1) an education program to inform the public and other
13 stakeholders about the purposes of the collection program
14 and how to participate in it;

15 (2) a plan for implementing and financing the system,
16 in accordance with Section 25 of this Act;

17 (3) documentation of the willingness of all necessary
18 parties to implement the proposed system;

19 (4) information identifying the make, model, and year
20 of vehicles containing mercury switches, a description of
21 the component, the location of the component, and a safe,
22 cost-effective, and environmentally sound method for their
23 removal from vehicles in commerce and from end-of-life
24 vehicles;

25 (5) a mercury switch capture rate of at least 90%,
26 which is consistent with the principle that mercury
27 switches shall be recovered unless the part is inaccessible
28 due to significant damage to the vehicle in the area
29 surrounding the location of the mercury switch;

30 (6) a description of the performance measures to be
31 used and reported upon by the manufacturer to demonstrate
32 that the system is meeting the capture rate identified in
33 paragraph (5) of this subsection (b) and other measures of
34 program effectiveness, including, but not limited to, the
35 number of switches collected from both end-of-life
36 vehicles and vehicles in commerce, the amount of mercury

1 collected, the number of vehicles containing mercury
2 switches, and the number of vehicles processed for
3 recycling;

4 (7) a description of additional or alternative actions
5 that shall be implemented to improve the system and its
6 operation in the event that the program targets established
7 under paragraph (5) of this subsection (b) are not met; and

8 (8) a plan to store the mercury collected and recovered
9 from vehicle components in the event that environmentally
10 appropriate management technologies are not available.

11 (c) In developing a removal, replacement, collection, and
12 recovery system for vehicles in commerce, manufacturers shall,
13 to the extent practicable, use existing dealerships, service
14 stations, inspection stations, repair shops, and other
15 facilities that regularly service vehicles in commerce. If a
16 manufacturer does not use such an entity, that manufacturer
17 must include in its plan the reasons for establishing a
18 separate removal, replacement, collection, and recovery
19 entity.

20 (d) Manufacturers shall, to the extent practicable, use the
21 existing recycling infrastructure available for end-of-life
22 vehicles. If a manufacturer does not use such infrastructure,
23 that manufacturer must include in its plan the reasons for
24 establishing a separate removal, collection, and recovery
25 infrastructure.

26 Section 25. Cost of removal, replacement, collection, and
27 recovery. The total cost of the removal, replacement,
28 collection, and recovery system for mercury switches shall be
29 borne by the manufacturer. This cost shall include, but not be
30 limited to, the following:

31 (1) labor to remove or replace (where possible) mercury
32 switches; labor shall be reimbursed at the prevailing rate
33 auto manufacturers use to reimburse automotive dealers for
34 replacing faulty switches under the manufacturer-dealer
35 warranty program;

- 1 (2) training;
- 2 (3) packaging of mercury switches for the purpose of
- 3 transportation to recycling, storage, or disposal
- 4 facilities;
- 5 (4) shipping of mercury switches to recycling,
- 6 storage, or disposal facilities;
- 7 (5) recycling, storage, or disposal of the mercury
- 8 switches;
- 9 (6) public education materials and presentations; and
- 10 (7) maintenance of all appropriate systems and
- 11 procedures to protect the environment from mercury
- 12 contamination.

13 Section 30. Plan approval.

14 (a) Within 30 days after receipt of a manufacturer's plan,

15 the Agency shall issue public notice and solicit public comment

16 on the manufacturer's plan.

17 (b) Within 90 days after receipt of a manufacturer's plan,

18 the Agency shall do either of the following:

19 (1) Determine whether the entire plan complies with

20 this Section. If the entire plan is approved, the

21 manufacturer shall begin implementation as soon as

22 practicable. If the entire plan is rejected, the Agency

23 shall inform the manufacturer as to the reasons for the

24 rejection. The manufacturer shall have 30 days thereafter

25 to submit a new plan.

26 (2) Determine whether any part of the plan meets the

27 requirements of this Section and approve such compliant

28 parts and disapprove such others that do not comply with

29 the requirements of this Section. The manufacturer shall

30 immediately implement the approved parts and submit a

31 revised plan respecting the remaining parts within 30 days

32 after receipt of notification of the Agency's disapproval.

33 The Agency shall review a manufacturer's revised plan

34 within 30 days after receipt.

35 (c) Two hundred and forty days after the effective date of

1 this Act, the Agency shall complete, on behalf of a
2 manufacturer, any portion of the plan that has not been
3 approved.

4 (d) The Agency shall review the plan 3 years after the
5 original date of approval of the plan and every 3 years
6 thereafter, and shall require modifications to the plan as
7 appropriate.

8 Section 35. Prohibition; proper management.

9 (a) A person who sells, gives, or otherwise conveys
10 ownership of an end-of-life vehicle to a scrap recycling
11 facility for recycling shall remove all mercury-added switches
12 from the end-of-life vehicle prior to delivery to the facility.

13 (b) Notwithstanding subsection (a) of this Section, a scrap
14 recycling facility may agree to accept an end-of-life vehicle
15 (that has not been intentionally flattened, crushed, or baled)
16 with mercury-added switches, in which case the scrap recycling
17 facility shall be responsible for removing the switches.

18 (c) It shall be unlawful for any person to represent that
19 mercury switches have been removed from a vehicle or vehicle
20 hulk being sold, given, or otherwise conveyed for recycling if
21 that person has not removed the mercury switches or arranged
22 with another person to have the switches removed.

23 Section 40. Phase-out of mercury-added vehicle components.
24 To prevent emissions or other releases of mercury from
25 vehicles, effective 2 vehicle model years from the effective
26 date of this Act, no mercury-added component shall be included
27 as part of a new vehicle offered for sale in Illinois.

28 Section 45. Exemptions.

29 (a) A mercury-added component that is necessary in a
30 vehicle to ensure compliance with federal or State health and
31 safety requirements, or for purposes of national security,
32 shall be exempt from the requirements of Section 40 of this
33 Act, provided that:

1 (1) the manufacturer applies or reapplies for an
2 exemption to the Agency; and

3 (2) the application is in writing, in a form acceptable
4 to the Agency, and the application states the need for an
5 exemption and the legal basis for an exemption.

6 (A) The application must include documentation
7 that there is "no technically feasible alternative" to
8 the use of mercury in the component and that there is
9 no comparable mercury-free component available at
10 reasonable cost to address the health or safety
11 requirement or issue of national security. "No
12 technically feasible alternative" does not include the
13 use of mercury for the purpose of marketing.

14 (B) The applicant must include a description of how
15 the manufacturer will fund the system for the proper
16 removal, collection, and recovery of the mercury-added
17 component while the vehicle is in commerce and at the
18 end of the vehicle's useful life.

19 (C) Subject to the issuance of public notice and
20 solicitations of public comment, the Agency shall
21 accept or reject the application for exemption within
22 90 days.

23 (b) An exemption application may be submitted to the
24 Agency, subject to public notice and comment, for safety
25 components not required by federal or State law. An exemption
26 may only be granted upon clear demonstration that:

27 (1) such components will substantially increase public
28 health and safety, taking into account any impacts the
29 components may have on overall on-road public safety and
30 the life-cycle impacts of the mercury use; and

31 (2) there is no technically feasible alternative to the
32 use of mercury in the component.

33 (c) An exemption granted under this Section by the Agency
34 shall be valid for a period not to exceed 2 years.

35 (d) Exemptions granted under this Section shall be
36 renewable for periods not to exceed 2 years.

1 (e) If granted an exemption, any vehicle that may contain a
2 mercury-added component shall be labeled by the manufacturer in
3 a manner to clearly inform purchasers that mercury is present
4 in the vehicle and that the component may not be disposed of or
5 placed in a waste stream destined for disposal until the
6 mercury is removed, reused, recovered, properly disposed of as
7 a hazardous waste, or otherwise managed to ensure that the
8 mercury does not become mixed with other solid waste. The label
9 shall identify the component with sufficient detail so that it
10 may be readily located for removal. The label shall be placed
11 on the doorpost of each vehicle that may contain a
12 mercury-added component and be constructed of materials that
13 are sufficiently durable to remain legible for the useful life
14 of the vehicle.

15 Section 50. Design for recycling. Manufacturers, when
16 designing vehicles and their components, shall:

17 (1) To the maximum extent practicable, eliminate
18 substances from their vehicles.

19 (2) Insure that their vehicles are designed to be
20 recycled in a safe, cost effective, and environmentally
21 sound manner, using existing technologies, entities, and
22 infrastructures.

23 (3) Where a vehicle is found to present environmental
24 risks that make it uneconomical to recycle, make
25 appropriate design or manufacturing changes.

26 Section 55. General compliance with other provisions.
27 Except as expressly provided in this Act, compliance with this
28 Act shall not exempt a person from compliance with any other
29 law.

30 Section 60. Rulemaking. The Agency may adopt rules
31 concerning this Act.

32 Section 65. Public notification; comment period. The

1 Agency shall issue public notice and solicit public comment on
2 (i) the removal, replacement, collection, and recovery plans
3 submitted by vehicle manufacturers pursuant to Section 20 of
4 this Act and (ii) the applications and reapplications for
5 exemptions submitted under Section 45 of this Act. This
6 notification and solicitation shall be issued within 30 days
7 after receiving a plan or an application from the manufacturer,
8 in order to give the public adequate time to comment on the
9 proposals.

10 Public comments received within the 90-day review period of
11 this Act shall be considered by the Agency when making a
12 decision to accept or reject either the plan or the application
13 for exemption.

14 Section 70. Reporting. One year after the implementation of
15 the removal, replacement, collection, and recovery system, and
16 annually thereafter, a manufacturer subject to Section 20 of
17 this Act shall report to the Agency concerning the performance
18 of the manufacturer's plan. The report shall include, but not
19 be limited to, the following:

20 (1) a detailed description and documentation of the
21 capture rate achieved;

22 (2) a plan to implement additional or alternative
23 actions, if necessary, to improve the capture rate;

24 (3) a listing of the public educational initiative
25 implemented, including the size of the audience reached;
26 and

27 (4) any changes in the participation of the necessary
28 parties for the plan to be effectively implemented.

29 Section 75. Civil enforcement. Any person violating any
30 provision of this Act or rule thereunder shall be liable and
31 subject to a civil penalty of not more than \$10,000 for the
32 violation and an additional civil penalty of not more than
33 \$1,000 for each day during which the violation continues.

1 Section 80. Criminal enforcement. It shall be a Class A
2 misdemeanor to violate this Act or rules thereunder, or any
3 terms or conditions thereof, or to knowingly submit any false
4 information under this Act.

5 Section 85. Universal waste. The Agency shall modify its
6 rules governing universal hazardous waste as appropriate to
7 promote the collection, transport, recovery, and proper
8 management of mercury-added vehicle components.

9 Section 90. Public education and outreach.

10 (a) Automobile manufacturers shall implement a
11 comprehensive education and outreach program for the general
12 public and parties willingly participating in the removal,
13 replacement (where appropriate), recovery, and disposal system
14 established under this Act. This education and outreach program
15 shall focus on the hazards related to and proper handling of
16 mercury, including, but not limited to, the requirements and
17 obligations of individuals, manufacturers, and the Agency and
18 details of the system established under this Act.

19 (b) In collaboration with automobile manufacturers, the
20 Agency shall supplement this education and outreach program
21 with an assistance program for businesses that might
22 participate in the collection, replacement (where
23 appropriate), recovery, and disposal system established under
24 the Act.

25 (c) Willingly participating parties shall implement a
26 public education and outreach program focused on their
27 participation in the collection, replacement (where
28 applicable), recovery, and disposal system established under
29 this Act.

30 Section 95. Government procurement. Notwithstanding any
31 other policies and guidelines for the procurement of vehicles,
32 the Agency shall, within one year after the effective date of
33 this Act, revise its policies, rules, and procedures to give

1 priority and preference to the purchase of mercury-free
2 vehicles, taking into consideration competition, price,
3 availability, and performance.