



Sen. Terry Link

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LRB094 18651 RSP 56378 a

1 AMENDMENT TO SENATE BILL 2884

2 AMENDMENT NO. _____. Amend Senate Bill 2884 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Mercury Switch Removal Act.

6 Section 3. Legislative findings. The General Assembly
7 finds:

8 (a) That switches containing mercury have been used for
9 convenience lighting and anti-lock braking systems in vehicles
10 sold in the State of Illinois.

11 (b) That mercury from the switches may be released into the
12 environment when end-of-life vehicles are flattened, crushed,
13 baled, shredded, melted, or otherwise processed for recycling.

14 (c) That removing mercury switches from end-of-life
15 vehicles is an effective way to prevent mercury from being
16 released into the environment.

17 (d) That it is in the public interest of the residents of
18 the State of Illinois to reduce the quantity of mercury
19 entering the environment by removing mercury switches from
20 end-of-life vehicles.

21 Section 5. Definitions. For the purposes of this Act:

22 "Agency" means the Environmental Protection Agency.

23 "Capture rate" means the number of convenience light

1 mercury switches removed from end-of-life vehicles prior to the
2 vehicle being flattened, crushed, baled, shredded, or
3 otherwise processed for recycling as a percentage of the total
4 number of convenience light mercury switches available for
5 removal from end-of-life vehicles that are flattened, crushed,
6 shredded, or otherwise processed for recycling.

7 "End-of-life vehicle" means any vehicle that is sold,
8 given, or otherwise conveyed to a vehicle recycler or scrap
9 metal recycler for the purpose of resale of its parts or
10 recycling.

11 "Manufacturer" means a person who is the last person in the
12 production or assembly process of a new motor vehicle that uses
13 one or more mercury switches or, in the case of an imported
14 vehicle, the importer or domestic distributor of the vehicle.
15 "Manufacturer" does not include any person engaged in the
16 business of selling new motor vehicles at retail or converting
17 or modifying new motor vehicles after the production or
18 assembly process.

19 "Mercury switch" means each mercury-containing capsule or
20 mercury-containing switch assembly that is part of a
21 convenience light switch assembly or part of an anti-lock
22 braking system assembly installed in a vehicle. An anti-lock
23 braking system assembly may contain more than one mercury
24 switch.

25 "Person" means any individual, partnership,
26 co-partnership, firm, company, limited liability company,
27 corporation, association, joint stock company, trust, estate,
28 political subdivision, State agency, or any other legal entity,
29 or their legal representative, agent, or assigns.

30 "Scrap metal recycler" means a person who engages in the
31 business of shredding or otherwise processing end-of-life
32 vehicles or other scrap metal into prepared grades and whose
33 principal product is scrap iron, scrap steel, or nonferrous
34 metallic scrap for sale for remelting purposes.

1 "Vehicle" means "motor vehicle" as that term is defined in
2 the Illinois Vehicle Code, but excluding second division
3 vehicles weighing more than 8,000 pounds.

4 "Vehicle crusher" means a person, other than a vehicle
5 recycler or a scrap metal recycler, who engages in the business
6 of flattening, crushing, or otherwise processing end-of-life
7 vehicles for recycling. Vehicle crushers include, but are not
8 limited to, persons who use fixed or mobile equipment to
9 flatten or crush end-of-life vehicles for a vehicle recycler or
10 a scrap recycler.

11 "Vehicle recycler" means a person who engages in the
12 business of acquiring, dismantling, removing parts from, or
13 destroying 6 or more end-of-life vehicles in a calendar year
14 for the primary purpose of reselling the vehicle parts.

15 Section 10. Removal requirements.

16 (a) Mercury switches removed from end-of-life vehicles
17 must be managed in accordance with the Environmental Protection
18 Act and regulations adopted thereunder.

19 (b) No person shall represent that all mercury switches
20 have been removed from a vehicle if all mercury switches have
21 not been removed from the vehicle, except where a mercury
22 switch cannot be removed from the vehicle because the switch is
23 inaccessible due to significant damage to the vehicle in the
24 area surrounding the switch.

25 (c) Consistent with the protection of confidential
26 business information, vehicle recyclers, vehicle crushers, and
27 scrap metal recyclers that remove mercury switches from
28 end-of-life vehicles must maintain records documenting the
29 following for each calendar quarter:

30 (1) the number of mercury switches the vehicle
31 recycler, vehicle crusher, or scrap metal recycler removed
32 from end-of-life vehicles;

33 (2) the number of end-of-life vehicles received by the

1 vehicle recycler, vehicle crusher, or scrap metal recycler
2 that contain one or more mercury switches;

3 (3) the number of end-of-life vehicles the vehicle
4 recycler, vehicle crusher, or scrap metal recycler
5 flattened, crushed, shredded, or otherwise processed for
6 recycling; and

7 (4) the make and model of each car from which one or
8 more mercury switches was removed by the vehicle recycler,
9 vehicle crusher, or scrap metal recycler.

10 The records required under this subsection (c) must be
11 retained at the vehicle recycler's or scrap metal recycler's
12 place of business for a minimum of 3 years and made available
13 for inspection and copying by the Agency during normal business
14 hours.

15 (d) For the period of July 1, 2006 through June 30, 2007 and
16 for each period of July 1 through June 30 thereafter, no later
17 than 45 days after the close of the period vehicle recyclers,
18 vehicle crushers, and scrap metal recyclers that remove mercury
19 switches from end-of-life vehicles must submit to the Agency an
20 annual report containing the following information for the
21 period: (i) the number of mercury switches the vehicle
22 recycler, vehicle crusher, or scrap metal recycler removed from
23 end-of-life vehicles; (ii) the number of end-of-life vehicles
24 received by the vehicle recycler, vehicle crusher, or scrap
25 metal recycler that contain one or more mercury switches, and
26 (iii) the number of end-of-life vehicles the vehicle recycler,
27 vehicle crusher, or scrap metal recycler flattened, crushed,
28 shredded, or otherwise processed for recycling. Data required
29 to be reported to the United State Environmental Protection
30 Agency under federal law or regulation may be used in meeting
31 requirements of this subsection (d), if the data contains the
32 information required under items (i), (ii), and (iii) of this
33 subsection.

1 Section 15. Mercury switch collection programs.

2 (a) Within 60 days of the effective date of this Act,
3 manufacturers of vehicles in Illinois that contain mercury
4 switches must begin to implement a mercury switch collection
5 program that facilitates the removal of mercury switches from
6 end-of-life vehicles prior to the vehicles being flattened,
7 crushed, shredded, or otherwise processed for recycling and to
8 collect and properly manage mercury switches in accordance with
9 the Environmental Protection Act and regulations adopted
10 thereunder. In order to ensure that the mercury switches are
11 removed and collected in a safe and consistent manner,
12 manufacturers must, to the extent practicable, use the
13 currently available end-of-life vehicle recycling
14 infrastructure. The collection program must be designed to
15 achieve capture rates of not less than (i) 35% for the period
16 of July 1, 2006, through June 30, 2007; (ii) 50% for the period
17 of July 1, 2007, through June 30, 2008; and (iii) 70% for the
18 period of July 1, 2008, through June 30, 2009 and for each
19 subsequent period of July 1 through June 30. At a minimum, the
20 collection program must:

21 (1) Develop and provide educational materials that
22 include guidance as to which vehicles may contain mercury
23 switches and procedures for locating and removing mercury
24 switches. The materials may include, but are not limited
25 to, brochures, fact sheets, and videos.

26 (2) Conduct outreach activities to encourage vehicle
27 recyclers and vehicle crushers to participate in the
28 mercury switch collection program. The activities may
29 include, but are not limited to, direct mailings,
30 workshops, and site visits.

31 (3) Provide storage containers to participating
32 vehicle recyclers and vehicle crushers for mercury
33 switches removed under the program.

34 (4) Provide a collection and transportation system to

1 periodically collect and replace filled storage containers
2 from vehicle recyclers, vehicle crushers, and scrap metal
3 recyclers, either upon notification that a storage
4 container is full or on a schedule predetermined by the
5 manufacturers.

6 (5) Establish an entity that will serve as a point of
7 contact for the collection program and that will establish,
8 implement, and oversee the collection program on behalf of
9 the manufacturers.

10 (6) Track participation in the collection program and
11 the progress of mercury switch removals and collections.

12 (b) Within 90 days of the effective date of this Act,
13 manufacturers of vehicles in Illinois that contain mercury
14 switches must submit to the Agency an implementation plan that
15 describes how the collection program under subsection (a) of
16 this Section will be carried out for the duration of the
17 program and how the program will achieve the capture rates set
18 forth in subsection (a) of this Section. At a minimum, the
19 implementation plan must:

20 (A) Identify the educational materials that will
21 assist vehicle recyclers, vehicle crushers, and scrap
22 metal processors in identifying, removing, and properly
23 managing mercury switches removed from end-of-life
24 vehicles.

25 (B) Describe the outreach program that will be
26 undertaken to encourage vehicle recyclers and vehicle
27 crushers to participate in the mercury switch collection
28 program.

29 (C) Describe how the manufacturers will ensure that
30 mercury switches removed from end-of-life vehicles are
31 managed in accordance with the Illinois Environmental
32 Protection Act and regulations adopted thereunder.

33 (D) Describe how the manufacturers will collect and
34 document the information required in the quarterly reports

1 submitted pursuant to subsection (e) of this Section.

2 (E) Describe how the collection program will be
3 financed and implemented.

4 (F) Identify the manufacturer's address to which the
5 Agency should send the notice required under subsection (f)
6 of this Section.

7 The Agency shall review the collection program plans it
8 receives for completeness and shall notify the manufacturer in
9 writing if a plan is incomplete. Within 30 days after receiving
10 a notification of incompleteness from the Agency the
11 manufacturer shall submit to the Agency a plan that contains
12 all of the required information.

13 (c) The Agency must provide assistance to manufacturers in
14 their implementation of the collection program required under
15 this Section. The assistance shall include providing
16 manufacturers with information about businesses likely to be
17 engaged in vehicle recycling or vehicle crushing, conducting
18 site visits to promote participation in the collection program,
19 and assisting with the scheduling, locating, and staffing of
20 workshops conducted to encourage vehicle recyclers and vehicle
21 crushers to participate in the collection program.

22 (d) Manufacturers subject to the collection program
23 requirements of this Section shall provide, to the extent
24 practicable, the opportunity for trade associations of vehicle
25 recyclers, vehicle crushers, and scrap metal recyclers to be
26 involved in the delivery and dissemination of educational
27 materials regarding the identification, removal, collection,
28 and proper management of mercury switches in end-of-life
29 vehicles.

30 (e) For the calendar quarter ending March 31, 2007, and for
31 each calendar quarter thereafter, not later than 45 days
32 following the close of the calendar quarter manufacturers
33 subject to the collection program requirements of this Section
34 must submit to the Agency a quarterly report that contains the

1 following information: (i) the number of vehicle recyclers,
2 vehicle crushers, and scrap metal recyclers participating in
3 the manufacturer's collection program during the reported
4 quarter, (ii) the number of mercury switches removed from
5 end-of-life vehicles during the reported quarter by the vehicle
6 recyclers, vehicle crushers, and scrap metal recyclers
7 participating in the program, and (iii) the amount of mercury
8 collected and recycled through the manufacturer's collection
9 program during the reported calendar quarter.

10 (f) If the reports required under this Act indicate that
11 the capture rates set forth in Subsection (a) of this Section
12 for the period of July 1, 2007, through June 30, 2008, or for
13 any subsequent period have not been met the Agency shall
14 provide notice that the capture rate was not met; provided,
15 however, that the Agency is not required to provide notice if
16 it determines that the capture rate was not met due to a force
17 majeure. The Agency shall provide the notice by posting a
18 statement on its website and by sending a written notice via
19 certified mail to the manufacturers subject to the collection
20 program requirement of this Section at the addresses provided
21 in the manufacturers' collection plans. Once the Agency
22 provides notice pursuant to this subsection (f) it is not
23 required to provide notice in subsequent periods in which the
24 capture rate is not met.

25 (g) Beginning 30 days after the Agency first provides
26 notice pursuant to subsection (f) of this Section, the
27 following shall apply:

28 (1) Vehicle recyclers must remove all mercury switches
29 from end-of-life vehicles prior to delivering the vehicles
30 to an on-site or off-site vehicle crusher or to a scrap
31 metal recycler, provided that a vehicle recycler is not
32 required to remove a mercury switch that is inaccessible
33 due to significant damage to the vehicle in the area
34 surrounding the mercury switch that occurred prior to the

1 vehicle recycler's receipt of the vehicle in which case the
2 damage must be noted in the records the vehicle recycler is
3 required to maintain under Section 10(c) of this Act.

4 (2) No vehicle recycler, vehicle crusher, or scrap
5 metal recycler shall flatten, crush, or otherwise process
6 an end-of-life vehicle for recycling unless all mercury
7 switches have been removed from the vehicle, provided that
8 a mercury switch that is inaccessible due to significant
9 damage to the vehicle in the area surrounding the mercury
10 switch that occurred prior to the vehicle recycler's or the
11 vehicle crusher's receipt of the vehicle is not required to
12 be removed. The damage must be noted in the records the
13 vehicle recycler or vehicle crusher is required to maintain
14 under Section 10(c) of this Act.

15 (3) Notwithstanding subsection (g)(1) of this Section,
16 a scrap metal recycler may agree to accept an end-of-life
17 vehicle that contains one or more mercury switches and that
18 has not been flattened, crushed, shredded, or otherwise
19 processed for recycling provided the scrap metal recycler
20 removes all mercury switches from the vehicle before the
21 vehicle is flattened, crushed, shredded, or otherwise
22 processed for recycling. Scrap metal recyclers are not
23 required to remove a mercury switch that is inaccessible
24 due to significant damage to the vehicle in the area
25 surrounding the mercury switch that occurred prior to the
26 scrap metal recycler's receipt of the vehicle. The damage
27 must be noted in the records the scrap metal recycler is
28 required to maintain under Section 10(c) of this Act.

29 (4) Manufacturers subject to the collection program
30 requirements of this Section must provide to vehicle
31 recyclers, vehicle crushers, and scrap metal recyclers the
32 following compensation for all mercury switches removed
33 from end-of-life vehicles on or after the date of the
34 notice: \$2.00 for each mercury switch removed by the

1 vehicle recycler, vehicle crusher, or the scrap metal
2 recycler, the costs of the containers in which the mercury
3 switches are collected, and the costs of packaging and
4 transporting the mercury switches off-site. Payment of
5 this compensation must be provided in a prompt manner.

6 (h) In meeting the requirements of this Section
7 manufacturers may work individually or as part of a group of 2
8 or more manufacturers.

9 Section 20. Evaluation. At the end of calendar year 2007,
10 and at the end of each year thereafter through calendar year
11 2016, the Agency shall meet with manufacturers subject to the
12 collection program requirements of Section 15 of this Act to
13 review the performance of the manufacturers' mercury switch
14 collection program, provided that the manufacturers must
15 request such a meeting. If the program is not accomplishing the
16 objectives set forth in the implementation plan the Agency may
17 recommend modifications to the program or recommend the
18 investigation of additional methods to promote the removal,
19 collection, and proper management of mercury switches from
20 end-of-life vehicles.

21 Section 25. Agency recommendations. Every 3 years the
22 Agency shall make a recommendation to the General Assembly as
23 to whether the \$2 fee required under Section 15 of this Act
24 should be modified to ensure adequate compensation for the
25 removal of mercury switches from end-of-life vehicles. In
26 developing its recommendations, the Agency shall seek comments
27 or information from interested persons, including, but not
28 limited to, representatives of vehicle recyclers, scrap metal
29 recyclers, vehicle manufacturers, steel and iron
30 manufacturers, and environmental groups.

31 Section 30. All information required to be submitted to the

1 Agency under this Act must be submitted on forms prescribed by
2 the Agency.

3 Section 35. The Agency shall have the duty to investigate
4 violations of this Act.

5 Section 40. Penalties.

6 (a) Any manufacturer that willfully or knowingly violates
7 any provision of this Act or fails to perform any duty imposed
8 by this Act shall be liable for a civil penalty not to exceed
9 \$1,000 for the violation and an additional civil penalty not to
10 exceed \$1,000 for each day the violation continues, and shall
11 be liable for a civil penalty not to exceed \$10,000 for a
12 second or subsequent violation and an additional civil penalty
13 not to exceed \$1,000 for each day the second or subsequent
14 violation continues.

15 (b) Any vehicle recycler, vehicle crusher, or scrap metal
16 recycler that willfully or knowingly violates any provision of
17 this Act or fails to perform any duty imposed by this Act shall
18 be liable for a civil penalty not to exceed \$250 for the first
19 violation and not to exceed \$500 for a second or subsequent
20 violation.

21 (c) The penalties provided for in this Section may be
22 recovered in a civil action brought in the name of the people
23 of the State of Illinois by the State's Attorney of the county
24 in which the violation occurred or by the Attorney General.
25 Without limiting any other authority that may exist for the
26 awarding of attorney's fees and costs, a court of competent
27 jurisdiction may award costs and reasonable attorney's fees,
28 including the reasonable costs of expert witnesses and
29 consultants, to the State's Attorney or the Attorney General in
30 a case where he or she has prevailed against a person who has
31 committed a willful, knowing, or repeated violation of this
32 Act. Any funds collected under this Section in an action in

1 which the Attorney General has prevailed shall be deposited in
2 the Hazardous Waste Fund established under the Environmental
3 Protection Act. Any funds collected under this Section in an
4 action in which a State's Attorney has prevailed shall be
5 retained by the county in which he or she serves.

6 (d) The State's Attorney of the county in which the
7 violation occurred or the Attorney General may, at the request
8 of the Agency or on his or her own motion, institute a civil
9 action for an injunction, prohibitory or mandatory, to restrain
10 violations of this Act or to require such other actions as may
11 be necessary to address violations of this Act.

12 (e) The penalties and injunctions provided in this Act are
13 in addition to any penalties, injunctions, or other relief
14 provided under any other law. Nothing in this Act shall bar a
15 cause of action by the State for any other penalty, injunction,
16 or relief provided by any other law.

17 Section 45. Manufacturers subject to the collection
18 program requirement of Section 15 of this Act shall indemnify,
19 defend, and hold harmless vehicle recyclers, vehicle crushers,
20 and scrap metal recyclers for any liabilities arising from
21 releases from a mercury switch after the switch is transferred
22 under the manufacturer's collection program to the
23 manufacturer or its agent.

24 Section 50. If the Agency determines that the requirements
25 of this Act are no longer necessary because a federal program
26 provides equal or greater protection of human health and safety
27 and the environment in this State, the Agency shall submit a
28 report of its determination to the General Assembly. In making
29 its determination the Agency shall seek comments or information
30 from interested persons, including, but not limited to,
31 representatives of vehicle recyclers, vehicle crushers, scrap
32 metal recyclers, vehicle manufacturers, steel and iron

1 manufacturers, and environmental groups.

2 Section 55. Repealer. This Act is repealed on January 1,
3 2018.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".