

1                   A bill to be entitled  
2           An act relating to management of mercury switches in  
3           vehicles; creating s. 403.7187, F.S.; providing a short  
4           title; providing a statement of purpose; providing  
5           definitions; requiring submittal of a mercury minimization  
6           plan to the Department of Environmental Protection by  
7           certain manufacturers or importers of vehicles containing  
8           a mercury switch; establishing minimum requirements for a  
9           mercury minimization plan; establishing standards and  
10          procedures for the department to approve or disapprove all  
11          or part of a mercury minimization plan; requiring  
12          implementation of an approved plan or a part thereof by  
13          the manufacturers or importers; providing for modification  
14          of an approved plan; requiring a vehicle recycler or a  
15          scrap recycling facility to remove mercury switches from  
16          vehicles and keep records; providing requirements for the  
17          management of the removed switches; prohibiting a person  
18          from representing that a mercury switch has been removed  
19          from a vehicle unless certain conditions are met; applying  
20          certain exemptions when a person receives a vehicle that  
21          is flattened, crushed, or baled; requiring certain  
22          manufacturers or importers of vehicles containing mercury  
23          switches to submit an annual report to the Department of  
24          Environmental Protection regarding implementation of the  
25          approved mercury minimization plan; providing requirements  
26          for the contents of such report; authorizing the  
27          department to discontinue such report requirement under  
28          certain conditions; authorizing the department to conduct

HB 1307

2006

29 | hearings regarding the recycling of vehicles; requiring  
30 | certain manufacturers or importers to submit an annual  
31 | report to the Department of Environmental Protection  
32 | regarding the design of vehicles to facilitate recycling;  
33 | providing requirements for the contents of such report;  
34 | requiring certain manufacturers or importers of vehicles  
35 | to make payments concerning mercury switch removal to a  
36 | vehicle recycler, a scrap recycling facility, and the  
37 | Department of Environmental Protection; directing certain  
38 | manufacturers or importers of vehicles to provide to  
39 | vehicle recyclers and scrap recycling facilities  
40 | containers for storing mercury switches; providing for  
41 | indemnification of a vehicle recycler or scrap recycling  
42 | facility by certain manufacturers or importers of vehicles  
43 | under certain conditions; authorizing the Department of  
44 | Environmental Protection to adopt rules; providing an  
45 | effective date.

46 |  
47 | Be It Enacted by the Legislature of the State of Florida:

48 |  
49 | Section 1. Section 403.7187, Florida Statutes, is created  
50 | to read:

51 | 403.7187 Mercury switch removal, collection, and  
52 | recovery.--

53 | (1) This section may be cited as the "Mercury Switch  
54 | Recovery Act."

55 | (2) The purpose of this section is to reduce mercury in  
56 | the environment by removing mercury switches from end-of-life

57 vehicles and by creating a program to collect and recover  
58 mercury switches that are removed from end-of-life vehicles in  
59 this state.

60 (3) As used in this section, the term:

61 (a) "Capture rate" means the percentage of mercury  
62 switches that are removed, collected, and recovered in a  
63 calendar year in this state in relation to the number of mercury  
64 switches available for removal from end-of-life vehicles in this  
65 state for that year.

66 (b) "Department" means the Department of Environmental  
67 Protection.

68 (c) "End-of-life vehicle" means a vehicle that is sold,  
69 given, or otherwise conveyed to a vehicle recycler or scrap  
70 recycling facility for recycling.

71 (d) "Manufacturer" means the last person in the production  
72 or assembly process of a new vehicle that uses mercury switches  
73 or, in the case of an imported vehicle, the importer of the  
74 vehicle or a successor of such importer.

75 (e) "Mercury minimization plan" means a plan that provides  
76 for the systematic collection, removal, and recovery of mercury  
77 switches from end-of-life vehicles.

78 (f) "Mercury switch" means each mercury-containing  
79 capsule, commonly known as a "bullet," that is part of a  
80 convenience light switch assembly on a vehicle.

81 (g) "Person" means an individual, corporation, company,  
82 firm, partnership, association, trust, joint-stock company or  
83 trust, venture, or municipal, state, or federal government or  
84 agency, or any other legal entity, however organized.

HB 1307

2006

85        (h) "Scrap recycling facility" means a person who is  
86 engaged in a business that uses machinery and equipment to  
87 process and manufacture scrap metal into prepared grades and  
88 that primarily produces scrap iron, scrap steel, or nonferrous  
89 metallic scrap for sale for remelting purposes.

90        (i) "Vehicle" means a passenger automobile or passenger  
91 car, station wagon, truck, van, or sport utility vehicle having  
92 a gross vehicle weight rating of less than 12,000 pounds.

93        (j) "Vehicle recycler" means a person engaged in the  
94 business of acquiring, dismantling, or destroying six or more  
95 end-of-life vehicles in a calendar year.

96        (4) By October 1, 2006, each manufacturer shall,  
97 individually or as part of a group of manufacturers, submit a  
98 mercury minimization plan to the department for review and  
99 approval. The plan must be developed in consultation with the  
100 department and must, at a minimum, include:

101        (a) For each vehicle that contains one or more mercury  
102 switches and that was produced, is in production, or is planned  
103 for production, a description of:

104        1. The make, model, and year of the vehicle.

105        2. Each mercury switch in the vehicle, including, but not  
106 limited to, the location of the switch. If a manufacturer is  
107 uncertain whether a convenience light switch assembly in a  
108 vehicle that such manufacturer is producing, or plans to  
109 produce, contains a mercury switch, a switch is presumed to be a  
110 mercury switch.

111        3. A system to mark the vehicle to indicate to a vehicle  
112 recycler or scrap recycling facility that may process the

HB 1307

2006

113 vehicle for shredding or crushing the presence or absence of  
114 each mercury switch.

115 (b) A description of the safe and environmentally sound  
116 methods for removing mercury switches from end-of-life vehicles.

117 (c) Educational materials to assist a vehicle recycler or  
118 scrap recycling facility in undertaking a safe and  
119 environmentally sound method for the removal of mercury switches  
120 from end-of-life vehicles, including, but not limited to,  
121 information concerning the hazards and proper handling of  
122 mercury.

123 (d) A recommended method for achieving a capture rate of  
124 at least 90 percent, which is consistent with the principle that  
125 a mercury switch must be removed, collected, and recovered from  
126 each vehicle described pursuant to paragraph (a) unless the  
127 switch is inaccessible due to significant damage to the end-of-  
128 life vehicle in the area surrounding the switch.

129 (e) A recommended method for storing and shipping mercury  
130 switches that are removed from end-of-life vehicles, including,  
131 but not limited to, a method of packaging and shipping the  
132 switches to a facility that is authorized to recycle, store, or  
133 dispose of them in an environmentally appropriate manner.

134 (f) A recommended method for storing the mercury switches  
135 that are removed from end-of-life vehicles if a technology to  
136 manage the switches in an environmentally appropriate manner is  
137 unavailable.

138 (g) Provisions to ensure that existing infrastructure to  
139 recycle end-of-life vehicles is used to the extent practicable.  
140 A plan that does not use such existing infrastructure must state

HB 1307

2006

141 reasons for establishing a separate infrastructure.

142 (h) A recommended method of implementing the plan.

143 (i) A recommended method of financing the plan that  
144 includes financing by each manufacturer. The method must ensure  
145 prompt payment to vehicle recyclers, scrap recycling facilities,  
146 and the department for the costs associated with the removal and  
147 disposal of mercury switches, which method includes, but is not  
148 limited to, payment in the amounts specified in paragraph  
149 (10) (a).

150 (5) No later than 120 days after receipt of a mercury  
151 minimization plan, the department shall approve or disapprove  
152 the plan in whole or in part. The department may approve a plan  
153 or part of a plan only when it has reasonable assurance that  
154 implementation of the plan or part of the plan will, in a manner  
155 that is environmentally safe, result in removal of mercury  
156 switches from end-of-life vehicles and that a program will be  
157 created to collect and recover the mercury switches that are  
158 removed. A plan or part of a plan that is not disapproved within  
159 the 120-day period is deemed approved subject to any  
160 modifications required by the department. The department may  
161 solicit input from representatives of vehicle recyclers, scrap  
162 recycling facilities, or other stakeholders concerning a plan  
163 that is under review.

164 (a) No later than 30 days after approval of a mercury  
165 minimization plan, each manufacturer submitting the plan shall  
166 begin, and thereafter shall continue, implementation of the  
167 plan.

168 (b) No later than 30 days after approval of part of a

169 mercury minimization plan, each manufacturer submitting a plan  
170 shall begin, and thereafter shall continue, implementation of  
171 the approved part of the plan.

172 (c) If all or part of a mercury minimization plan is  
173 disapproved, the department shall provide written comments  
174 stating the reasons for the disapproval, and each manufacturer  
175 submitting a disapproved plan or part of a plan shall, alone or  
176 as part of a group of manufacturers, submit a revised plan or  
177 part of a plan that is consistent with the department's  
178 comments. The revised plan or part of the plan must be submitted  
179 within 30 days after the date of the disapproval, and the  
180 department shall approve or disapprove the revised plan or part  
181 of the plan no later than 30 days after receipt. No later than  
182 30 days after approval of the revised plan or part of the plan,  
183 each manufacturer submitting a plan or part of a plan shall  
184 begin, and thereafter shall continue, implementation of the plan  
185 or part of the plan.

186 (6) The department may request modification of an approved  
187 mercury minimization plan if it finds that the plan's terms or  
188 manner of implementation fails to provide reasonable assurance  
189 that implementation of the plan will, in a manner that is  
190 environmentally safe, result in removal of mercury switches from  
191 end-of-life vehicles and creation of a program to collect and  
192 recover the mercury switches that are removed. Within 60 days  
193 after the date of any such request, a manufacturer shall submit  
194 an amendment to the plan which is consistent with the request.  
195 The department shall approve or disapprove the amendment within  
196 30 days after receipt. An amendment that is not disapproved

197 within the 30-day period is deemed approved.

198 (7) (a) Beginning 30 days after approval of each mercury  
 199 minimization plan, a vehicle recycler that sells, gives, or  
 200 otherwise conveys ownership of an end-of-life vehicle identified  
 201 in the plan to a scrap recycling facility must remove each  
 202 mercury switch from the vehicle before delivery to the facility.

203 (b) A mercury switch that is inaccessible due to  
 204 significant damage to the area surrounding the switch need not  
 205 be removed before such delivery if the damage is noted on the  
 206 normal business records of the vehicle recycler.

207 (c) A scrap recycling facility may accept delivery of such  
 208 an end-of-life vehicle when each mercury switch has not been  
 209 removed if the vehicle has not been intentionally flattened,  
 210 crushed, or baled.

211 (d) A vehicle recycler or scrap recycling facility that  
 212 removes a mercury switch from an end-of-life vehicle must  
 213 maintain, and make available to the department upon request, a  
 214 written record of the make and model of each vehicle from which  
 215 a mercury switch has been removed and the number of mercury  
 216 switches collected.

217 (e) A vehicle recycler or scrap recycling facility that  
 218 removes a mercury switch must ensure that the switch is  
 219 thereafter collected, stored, transported, and handled in  
 220 accordance with:

- 221 1. The approved mercury minimization plan; and
- 222 2. The rules of the department concerning universal waste
- 223 as set forth in rule 62-730.185, Florida Administrative Code.

224 (f) A person may not represent that a mercury switch is



HB 1307

2006

225 removed from an end-of-life vehicle being sold, given, or  
226 otherwise conveyed for recycling unless that person has removed,  
227 or arranged for another person to remove, the switch.

228 (g) A person who receives an end-of-life vehicle that has  
229 been intentionally flattened, crushed, or baled is not in  
230 violation of this section if a mercury switch is found in the  
231 vehicle after such receipt.

232 (8) One year after a mercury minimization plan is approved  
233 by the department, and annually thereafter, each manufacturer  
234 responsible for implementing the plan shall submit to the  
235 department, individually or as part of a group of manufacturers,  
236 a written report concerning implementation of the plan. The  
237 department may discontinue the requirement for the annual report  
238 by a particular manufacture if it finds that the mercury  
239 switches in end-of-life vehicles produced or imported by the  
240 manufacturer no longer pose a significant threat to the  
241 environment or to public health. The report must include, but  
242 need not be limited to:

243 (a) A statement of the number of mercury switches  
244 collected, the number of end-of-life vehicles processed for  
245 recycling, and the number of such vehicles that contain mercury  
246 switches;

247 (b) A description of how the mercury switches have been  
248 managed; and

249 (c) A description of the amounts paid to cover the costs  
250 of implementing the mercury minimization plan.

251 (9) The department may conduct hearings to evaluate the  
252 steps manufacturers are taking to design vehicles and their

253 components for recycling and to recommend legislative action to  
254 promote vehicle recycling for purposes of preserving scarce  
255 resources and ensuring the safe and efficient reduction of solid  
256 waste. One year after a mercury minimization plan is approved by  
257 the department, and annually thereafter, each manufacturer  
258 responsible for implementing the plan shall submit to the  
259 department, individually or as part of a group of manufacturers,  
260 a written report concerning the steps being taken by  
261 manufacturers to design vehicles and their components for  
262 recycling. The report must include, but need not be limited to:

263 (a) A list of each component that contains mercury which  
264 is included in each vehicle produced or imported by each  
265 manufacturer for the current model year, the next model year,  
266 and each of the prior 3 model years;

267 (b) Each design change that each manufacturer has  
268 implemented or is implementing to reduce or eliminate the  
269 mercury in each component on the list created pursuant to  
270 paragraph (a) and the year mercury will be eliminated from such  
271 component;

272 (c) Each policy or practice that each manufacturer has  
273 implemented or is implementing to ensure that each vehicle the  
274 manufacturer produces or imports is designed to be recycled in a  
275 safe, cost-effective, and environmentally sound manner using  
276 existing technology and infrastructure; and

277 (d) A list of:

278 1. Each complaint or report that the manufacturer has  
279 received within the last 12 months from a vehicle recycler or  
280 its representative, a scrap recycling facility or its

281 representative, or a governmental entity;  
 282 2. Any other fact or circumstance that is known to the  
 283 manufacturer, including, but not limited to, a design or  
 284 component feature, that poses risks to the environment or public  
 285 health or that makes a vehicle produced or imported by the  
 286 manufacturer or a component of such a vehicle uneconomical to  
 287 recycle; and  
 288 3. Each design or manufacturing change the manufacturer  
 289 has implemented or is implementing to reduce or remove any such  
 290 environmental or public health risk and the year any such change  
 291 will eliminate the risk.  
 292 (10) Each manufacturer shall:  
 293 (a) For each vehicle that is produced or imported by that  
 294 manufacturer, and after production by a vehicle recycler or  
 295 scrap recycling facility of the records specified in paragraph  
 296 (8)(c), promptly:  
 297 1. As partial compensation for the labor or other costs to  
 298 remove the mercury switches, pay \$5 to the recycler for each  
 299 switch the recycler has removed and to such facility for each  
 300 mercury switch the facility has removed.  
 301 2. As partial compensation for costs to administer this  
 302 section, pay \$1 to the department for each mercury switch  
 303 removed by the recycler or facility.  
 304 3. Reimburse each such recycler or facility for expenses  
 305 incurred in recycling, storing, or disposing of mercury  
 306 switches, including, but not limited to, expenses to ship  
 307 switches to recycling, storage, or disposal facilities, to  
 308 purchase packaging in which to transport switches to such

HB 1307

2006

309 facilities, or to prepare or distribute educational materials  
310 required pursuant to this section to vehicle recyclers and scrap  
311 recycling facilities.

312  
313 Such compensation or reimbursement must be made without regard  
314 to when a switch is removed or when an expense is incurred.

315 (b) By August 1, 2006, individually or as part of a group  
316 of manufacturers, provide to each vehicle recycler and scrap  
317 recycling facility one or more containers in which the mercury  
318 switches that the recycler or facility has removed from an end-  
319 of-life vehicle can be safely stored until such time as vehicle  
320 recyclers and scrap recycling facilities are reimbursed pursuant  
321 to paragraph (a).

322 (c) Indemnify, defend, and hold harmless each vehicle  
323 recycler and scrap recycling facility for any liability arising  
324 from the release of the mercury from the mercury switches after  
325 the switches are transferred free on board to the manufacturer  
326 or an agent of the manufacturer or a person under contract with  
327 the manufacturer.

328 (11) The department is authorized to adopt rules pursuant  
329 to ss. 120.536(1) and 120.54 to implement the provisions of this  
330 section that confer duties upon the department.

331 Section 2. This act shall take effect July 1, 2006.