

By Senator Alexander

17-903A-06

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

1 authorizing the department to discontinue such
2 report requirement under certain conditions;
3 authorizing the department to conduct hearings
4 regarding the recycling of vehicles; requiring
5 certain manufacturers or importers to submit an
6 annual report to the Department of
7 Environmental Protection regarding the design
8 of vehicles to facilitate recycling; providing
9 requirements for the contents of such report;
10 requiring certain manufacturers or importers of
11 vehicles to make payments concerning mercury
12 switch removal to a vehicle recycler, a scrap
13 recycling facility, and the Department of
14 Environmental Protection; directing certain
15 manufacturers or importers of vehicles to
16 provide to vehicle recyclers and scrap
17 recycling facilities containers for storing
18 mercury switches; providing for indemnification
19 of a vehicle recycler or scrap recycling
20 facility by certain manufacturers or importers
21 of vehicles under certain conditions; requiring
22 the Department of Environmental Protection to
23 adopt rules; providing an effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 403.7187, Florida Statutes, is
28 created to read:

29 403.7187 Mercury switch removal, collection, and
30 recovery.--

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1 (1) This section may be cited as the "Mercury Switch
2 Recovery Act." The purpose of this section is to reduce
3 mercury in the environment by removing mercury switches from
4 end-of-life vehicles and by creating a program to collect and
5 recover mercury switches that are removed from end-of-life
6 vehicles in this state.

7 (2) As used in this section, the term:

8 (a) "Department" means the Department of Environmental
9 Protection.

10 (b) "End-of-life vehicle" means a vehicle that is
11 sold, given, or otherwise conveyed to a vehicle recycler or
12 scrap recycling facility for recycling.

13 (c) "Manufacturer" means the last person in the
14 production or assembly process of a new vehicle that uses
15 mercury switches or a successor of such manufacturer. In the
16 case of an imported vehicle that uses mercury switches, the
17 term means the importer of the vehicle or a successor of such
18 importer.

19 (d) "Mercury minimization plan" means a plan that
20 provides for the systematic collection, removal, and recovery
21 of mercury switches from end-of-life vehicles.

22 (e) "Mercury switch" means each mercury-containing
23 capsule, commonly known as a "bullet," which is part of a
24 convenience light switch assembly on a vehicle.

25 (f) "Person" means an individual, corporation,
26 company, firm, partnership, association, trust, joint-stock
27 company or trust, venture, or municipal, state, or federal
28 government or agency, or any other legal entity, however
29 organized.

30 (g) "Scrap recycling facility" means a person who is
31 engaged in a business that uses machinery and equipment to

1 process and manufacture scrap metal into prepared grades and
2 that principally produces scrap iron, scrap steel, or
3 nonferrous metallic scrap for sale for remelting purposes.

4 (h) "Vehicle" means a passenger automobile or
5 passenger car, station wagon, truck, van, or sport utility
6 vehicle having a gross vehicle weight rating of less than
7 12,000 pounds.

8 (i) "Vehicle recycler" means a person engaged in the
9 business of acquiring, dismantling, or destroying six or more
10 end-of-life vehicles in a calendar year.

11 (3) By October 1, 2006, each manufacturer shall,
12 individually or as part of a group of manufacturers, submit a
13 mercury minimization plan to the department for review and
14 approval. The plan must be developed in consultation with the
15 department and must, at minimum, include:

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

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

20 2. Each mercury switch in the vehicle, including, but
21 not limited to, the location of the switch. If a manufacturer
22 is uncertain whether a convenience light switch assembly in a
23 vehicle that such manufacturer is producing, or plans to
24 produce, contains a mercury switch, such switch is presumed to
25 be a mercury switch.

26 3. A system to mark the vehicle to indicate the
27 presence or absence of each mercury switch to a vehicle
28 recycler or scrap recycling facility that may process the
29 vehicle for shredding or crushing.

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

4 (c) Educational materials to assist a vehicle recycler
5 or scrap recycling facility in undertaking a safe and
6 environmentally sound method for the removal of mercury
7 switches from end-of-life vehicles, including, but not limited
8 to, information concerning the hazards and proper handling of
9 mercury.

10 (d) A recommended method for storing and shipping
11 mercury switches that are removed from end-of-life vehicles,
12 including, but not limited to, a method of packaging and
13 shipping the switches to a facility that is authorized to
14 recycle, store, or dispose of them in an environmentally
15 appropriate manner.

16 (e) A recommended method for storing the mercury
17 switches that are removed from end-of-life vehicles if a
18 technology to manage the switches in an environmentally
19 appropriate manner is unavailable.

20 (f) Provisions to ensure that existing infrastructure
21 to recycle end-of-life vehicles is used to the extent
22 practicable. A plan that does not use such existing
23 infrastructure must state reasons for establishing a separate
24 infrastructure.

25 (g) A recommended method of implementing the plan.

26 (h) A recommended method of financing the plan which
27 includes financing by each manufacturer. The method must
28 ensure prompt payment to vehicle recyclers, scrap recycling
29 facilities, and the department for the costs associated with
30 the removal and disposal of mercury switches, which method
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1 includes, but is not limited to, payment in the amounts
2 specified in paragraph (9)(a).

3 (4) Within 120 days after receipt of a mercury
4 minimization plan, the department shall approve or disapprove
5 the plan in whole or in part. The department may approve a
6 plan or part only when it has reasonable assurance that
7 implementation of the plan or part will, in a manner that is
8 environmentally safe, result in removal of mercury switches
9 from end-of-life vehicles and creation of a program to collect
10 and recover the mercury switches that are removed. A plan or
11 part of a plan that is not disapproved within the 120-day
12 period is deemed approved subject to any modifications
13 required by the department. The department may solicit input
14 from representatives of vehicle recyclers, scrap recycling
15 facilities, or other stakeholders concerning a plan that is
16 under review.

17 (a) Within 30 days after approval of a mercury
18 minimization plan, or within another time period specified by
19 the department, each manufacturer submitting the plan shall
20 begin, and thereafter shall continue, implementation of the
21 plan.

22 (b) Within 30 days after approval of part of a mercury
23 minimization plan, or within another time period specified by
24 the department, each manufacturer submitting the plan shall
25 begin, and thereafter shall continue, implementation of the
26 approved part of the plan.

27 (c) If all or part of a mercury minimization plan is
28 disapproved, the department shall provide written comments
29 stating the reasons for the disapproval, and each manufacturer
30 submitting the disapproved plan or part shall, alone or as
31 part of a group of manufacturers, submit a revised plan or

1 part that is consistent with the department's comments. The
2 revised plan or part must be submitted within 30 days after
3 the date of the disapproval, and the department shall approve
4 or disapprove the revised plan or part within 30 days after
5 receipt. Within 30 days after approval of the revised plan or
6 part, or within another time period specified by the
7 department, each manufacturer submitting the plan or part
8 shall begin, and thereafter shall continue, implementation of
9 the plan or part. If a plan or part is not approved on or
10 before March 1, 2007, the department shall establish a final
11 approved plan or part, and each such manufacturer, within 30
12 days after such establishment, shall begin, and thereafter
13 shall continue, implementation of the approved plan or part.

14 (5) The department may request modification of an
15 approved mercury minimization plan if it finds that the plan's
16 terms or manner of implementation fail to provide reasonable
17 assurance that implementation of the plan will, in a manner
18 that is environmentally safe, result in removal of mercury
19 switches from end-of-life vehicles and creation of a program
20 to collect and recover the mercury switches that are removed.
21 Within 60 days after the date of any such request, a
22 manufacturer shall submit an amendment to the plan which is
23 consistent with the request. The department shall approve or
24 disapprove the amendment within 30 days after receipt. An
25 amendment that is not disapproved within the 30-day period is
26 deemed approved.

27 (6)(a) Beginning 30 days after approval of each
28 mercury minimization plan, a vehicle recycler that sells,
29 gives, or otherwise conveys ownership of an end-of-life
30 vehicle identified in the plan to a scrap recycling facility
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1 must remove each mercury switch from the vehicle before
2 delivery to the facility.

3 (b) A mercury switch that is inaccessible due to
4 significant damage to the area surrounding the switch need not
5 be removed before delivery to a scrap recycling facility if
6 the damage is noted on the normal business records of the
7 vehicle recycler.

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

12 (d) A vehicle recycler or scrap recycling facility
13 that removes a mercury switch from an end-of-life vehicle must
14 maintain, and make available to the department upon request, a
15 written record of the make of each vehicle from which a
16 mercury switch has been removed and the number of mercury
17 switches collected.

18 (e) A vehicle recycler or scrap recycling facility
19 that removes a mercury switch must ensure that the switch is
20 thereafter collected, stored, transported, and handled in
21 accordance with:

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

26 (f) A person may not represent that a mercury switch
27 is removed from an end-of-life vehicle being sold, given, or
28 otherwise conveyed for recycling unless that person has
29 removed, or arranged for another person to remove, the switch.

30 (g) A person who receives an end-of-life vehicle that
31 has been intentionally flattened, crushed, or baled is not in

1 violation of this section if a mercury switch is found in the
2 vehicle after such receipt.

3 (7) One year after a mercury minimization plan is
4 approved by the department, and annually thereafter, each
5 manufacturer responsible for implementing the plan shall
6 submit to the department, individually or as part of a group
7 of manufacturers, a written report concerning implementation
8 of the plan. The department may discontinue the requirement
9 for the annual report by a particular manufacture if it finds
10 that the mercury switches in end-of-life vehicles produced or
11 imported by the manufacturer no longer pose a significant
12 threat to the environment or to public health. The report must
13 include, but need not be limited to:

14 (a) A statement of the number of mercury switches
15 collected, the number of end-of-life vehicles processed for
16 recycling, and the number of such vehicles that contain
17 mercury switches;

18 (b) A description of how the mercury switches have
19 been managed; and

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

22 (8) The department may conduct hearings to evaluate
23 the steps manufacturers are taking to design vehicles and
24 their components for recycling and to recommend legislative
25 action to promote vehicle recycling for purposes of preserving
26 scarce resources and ensuring the safe and efficient reduction
27 of solid waste. One year after a mercury minimization plan is
28 approved by the department, and annually thereafter, each
29 manufacturer responsible for implementing the plan shall
30 submit to the department, individually or as part of a group
31 of manufacturers, a written report concerning the steps being

1 taken by manufacturers to design vehicles and their components
2 for recycling. The report must include, but need not be
3 limited to:

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

8 (b) Each design change that each manufacturer has
9 implemented or is implementing to reduce or eliminate the
10 mercury in each component on the list created pursuant to
11 paragraph (a) and the year mercury will be eliminated from
12 such component;

13 (c) Each policy or practice that each manufacturer has
14 implemented or is implementing to ensure that each vehicle it
15 produces or imports is designed to be recycled in a safe,
16 cost-effective, and environmentally sound manner using
17 existing technology and infrastructure; and

18 (d) A list of:

19 1. Each complaint or report that the manufacturer has
20 received within the last 12 months from a vehicle recycler or
21 its representative, a scrap recycling facility or its
22 representative, or a governmental entity;

23 2. Any other fact or circumstance that is known to the
24 manufacturer, including, but not limited to, a design or
25 component feature, which poses risks to the environment or
26 public health or that makes a vehicle produced or imported by
27 the manufacturer or a component of such a vehicle uneconomical
28 to recycle; and

29 3. Each design or manufacturing change the
30 manufacturer has implemented or is implementing to reduce or
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1 remove any such environmental or public health risk and the
2 year any such change will eliminate the risk.

3 (9) Each manufacturer shall:

4 (a) For each vehicle that is produced or imported by
5 that manufacturer, and after production by a vehicle recycler
6 or scrap recycling facility of the records specified in
7 paragraph (6)(d), promptly:

8 1. As partial compensation for the labor or other
9 costs to remove the mercury switches, pay \$5 to the recycler
10 for each switch the recycler has removed and to such facility
11 for each mercury switch the facility has removed.

12 2. As partial compensation for costs to administer
13 this section, pay \$1 to the department for each mercury switch
14 removed by the recycler or facility.

15 3. Reimburse each such recycler or facility for
16 expenses incurred in recycling, storing, or disposing of
17 mercury switches, including, but not limited to, expenses to
18 ship switches to recycling, storage, or disposal facilities,
19 to purchase packaging in which to transport switches to such
20 facilities, or to prepare or distribute educational materials
21 required pursuant to this section to vehicle recyclers and
22 scrap recycling facilities.

23
24 Such compensation or reimbursement must be made without regard
25 to when a switch is removed or when an expense is incurred.

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

3 (c) Indemnify, defend, and hold harmless each vehicle
4 recycler and scrap recycling facility for any liability
5 arising from the release of the mercury from the mercury
6 switches after the switches are transferred free on board to
7 the manufacturer or an agent of the manufacturer or a person
8 under contract with the manufacturer.

9 (10) The department shall adopt rules to administer
10 this section.

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

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14 SENATE SUMMARY

15 Requires submittal of a mercury minimization plan to the
16 Department of Environmental Protection by certain
17 manufacturers or importers of vehicles containing mercury
18 switches. Provides for review of the plan by the
19 department and requires implementation of an approved
20 plan or part of a plan by the manufacturers or importers.
21 Provides for modification of an approved plan. Requires
22 a vehicle recycler or a scrap recycling facility to
23 remove mercury switches from vehicles and to keep
24 records. Provides requirements for management of the
25 removed switches. Prohibits a person from representing
26 that a mercury switch has been removed from a vehicle
27 unless certain conditions are met. Provides for
28 exemptions when a person receives a flattened vehicle.
29 Requires certain manufacturers or importers of vehicles
30 to submit an annual report to the department regarding
31 implementation of the mercury minimization plan, and
authorizes the department to discontinue the report
requirement under certain conditions. Authorizes the
department to conduct hearings regarding recycling of
vehicles. Requires certain manufacturers or importers to
submit an annual report to the department regarding
design of vehicles for recycling. Requires certain
manufacturers or importers of vehicles to make payments
for mercury switch removal to a vehicle recycler, a scrap
recycling facility, and the department. Directs certain
manufacturers or importers of vehicles to provide
containers for storage of mercury switches to vehicle
recyclers and scrap recycling facilities. Provides for
indemnification of a vehicle recycler or scrap recycling
facility by certain manufacturers or importers of
vehicles. Requires rulemaking by the department.