

HOUSE BILL 75

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2001 Regular Session
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(PRE-FILED)

By: **Delegate Hubbard**
Requested: June 21, 2000
Introduced and read first time: January 10, 2001
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 2001

CHAPTER _____

1 AN ACT concerning

2 **Environment - Mercury and ~~Mercury Products - Sale and Disposal~~ Products**
3 **that Contain Mercury**

4 FOR the purpose of ~~prohibiting a person from selling elemental mercury; prohibiting~~
5 ~~a manufacturer from selling mercury added novelties and mercury added~~
6 ~~products; prohibiting the disposal of mercury, mercury added products, and~~
7 ~~mercury added novelties on or after a certain date except in a certain manner~~
8 ~~prohibiting certain persons from selling or providing to consumers certain fever~~
9 ~~thermometers after a certain date except under certain circumstances;~~
10 ~~establishing a certain date after which the use of mercury in certain classrooms~~
11 ~~is prohibited; requiring the Department to provide certain assistance and~~
12 ~~outreach to schools; declaring certain findings of the General Assembly;~~
13 ~~requiring the Department of the Environment to adopt certain regulations;~~
14 ~~providing that a person who violates certain provisions is guilty of a~~
15 ~~misdemeanor and subject to certain penalties; requiring the Department to~~
16 ~~implement a certain program; requiring the Department to review the~~
17 ~~effectiveness of this Act and report to the Governor and General Assembly on~~
18 ~~certain subjects by a certain date and in a certain manner; repealing provisions~~
19 ~~governing the disposal and regulation of mercuric oxide batteries; requiring~~
20 ~~State agencies to give preference to certain products beginning on a certain date~~
21 ~~and under certain circumstances; authorizing the Board of Public Works to~~
22 ~~adopt certain regulations; requiring the Children's Environmental Health and~~
23 ~~Protection Advisory Council to conduct a certain survey and provide a certain~~
24 ~~report in a certain manner by a certain date; defining terms; and generally~~
25 ~~relating to the regulation of the disposal of mercury, mercury added novelties,~~
26 ~~and mercury added products~~ mercury and products that contain mercury.

1 BY repealing and reenacting, without amendments,
 2 Article - Environment
 3 Section 6-901 through 6-903, inclusive, ~~and the subtitle "Subtitle 9. Mercuric~~
 4 ~~Oxide Batteries~~ to be under the amended subtitle "Subtitle 9. Mercury"
 5 and the new part "Part I. Mercuric Oxide Batteries"
 6 Annotated Code of Maryland
 7 (1996 Replacement Volume and 2000 Supplement)

8 BY adding to
 9 Article - Environment
 10 ~~Section 6-901 through 6-906, inclusive, to be under the new subtitle "Subtitle 9.~~
 11 ~~Mercury and Mercury Products"~~ Section 6-904 through 6-907, inclusive,
 12 to be under the new part "Part II. Mercury and Products that Contain
 13 Mercury"
 14 Annotated Code of Maryland
 15 (1996 Replacement Volume and 2000 Supplement)

16 BY adding to
 17 Article - State Finance and Procurement
 18 Section 14-406
 19 Annotated Code of Maryland
 20 (1995 Replacement Volume and 2000 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Environment**

24 ~~{Subtitle 9. Mercuric Oxide Batteries~~ MERCURY.} PART I. MERCURIC OXIDE

25 BATTERIES.

26 ~~{6-901.~~

27 (a) On or after July 1, 1994, a person may not dispose of a mercuric oxide
 28 battery except in a manner that the Department approves under regulations adopted
 29 by the Department.

30 (b) Any 2 or more manufacturers may develop a joint plan for recycling or
 31 disposal of any specified mercuric oxide battery that they manufacture.

32 (c) (1) A manufacturer shall be responsible for the environmentally sound
 33 collection, transportation, and recycling or proper disposal, including the cost of these
 34 activities, of every used mercuric oxide battery produced by the manufacturer and
 35 sold or offered for promotional purposes in the State.

36 (2) Notwithstanding paragraph (1) of this subsection, a retailer or seller
 37 may provide for the collection, recycling, or proper disposal of used mercuric oxide

1 batteries through the sale to a refiner or a refiner's agent if the retailer or seller
2 complies with any requirement established by the Department to implement this
3 section.

4 (d) Manufacturers may establish or utilize a trade association or a consortium
5 comprised of members of the dry cell battery industry in order to facilitate compliance
6 with the requirements of this section.

7 (e) A manufacturer shall consult with the Office of Recycling in developing its
8 plan.

9 (f) Each battery management plan submitted by a manufacturer shall
10 include:

11 (1) The designation of the collector, transporter, processor, or collection
12 system to be utilized by the manufacturer, or by the county or municipal corporation,
13 institutional generator, retailer or small quantity generator on behalf of the
14 manufacturer, for the collection, transportation, and recycling or proper disposal of
15 used mercuric oxide batteries in each county;

16 (2) The designation of the funding source or mechanism to be used by the
17 manufacturer to defray the costs of implementing the battery management plan; and

18 (3) A strategy for informing consumers, on any store display promoting
19 the sale or use of the batteries the manufacturer manufactures, that these types of
20 used dry cell batteries may not enter the solid waste stream, and that a convenient
21 mechanism for the collection, transportation, and recycling or proper disposal of these
22 types of used batteries is available to the consumer.}

23 {6-902.

24 A person may not sell, distribute, or offer for sale in this State a mercuric oxide
25 battery unless:

26 (1) The person is a party to a plan approved by the Department under §
27 6-901 of this subtitle; or

28 (2) A retailer or seller has provided for the collection, recycling, or proper
29 disposal of used mercuric oxide batteries through the sale to a refiner or a refiner's
30 agent and the retailer or seller has complied with any requirement established by the
31 Department to implement § 6-901 of this subtitle.}

32 {6-903.

33 A person who violates any provision of this subtitle is guilty of a misdemeanor
34 and on conviction is subject to a fine not exceeding \$100 for each violation.}

- 1 ~~(VI) ELECTRIC SWITCHES;~~
 2 ~~(VII) FLUORESCENT LAMPS;~~
 3 ~~(VIII) HOSPITAL EQUIPMENT;~~
 4 ~~(IX) THERMOMETERS; AND~~
 5 ~~(X) THERMOSTATS.~~

6 ~~6-902.~~

7 THE GENERAL ASSEMBLY FINDS THAT:

- 8 (1) MERCURY IS A PERSISTENT AND TOXIC POLLUTANT THAT
 9 BIOACCUMULATES IN THE ENVIRONMENT;
- 10 (2) CONSUMPTION OF MERCURY-CONTAMINATED FISH POSES A
 11 SIGNIFICANT HEALTH THREAT;
- 12 (3) COMBUSTION OF MUNICIPAL AND OTHER SOLID WASTE IS A SOURCE
 13 OF MERCURY POLLUTION;
- 14 (4) BOTH INDUSTRY AND GOVERNMENT ARE WORKING TO REDUCE THE
 15 CONTENT OF MERCURY IN PRODUCTS AND TO CONTROL THE RELEASE OF MERCURY
 16 INTO THE ENVIRONMENT;
- 17 ~~(4)~~ (5) ACCIDENTAL MERCURY SPILLS, BREAKAGES, AND RELEASES
 18 HAVE OCCURRED AT SCHOOLS IN THE UNITED STATES, EXPOSING STUDENTS,
 19 TEACHERS, AND ADMINISTRATORS TO MERCURY EMISSIONS; AND
- 20 ~~(5)~~ ~~HEALTH CARE, EDUCATIONAL, AND RESEARCH FACILITIES IN THE~~
 21 ~~UNITED STATES HAVE EXPERIENCED EMPLOYEE EXPOSURES TO MERCURY,~~
 22 ~~RESULTING IN SIGNIFICANT COSTS; AND~~
- 23 (6) REMOVAL OF MERCURY AND MERCURY CONTAINING PRODUCTS
 24 FROM THE WASTE STREAM PRIOR TO COMBUSTION OR DISPOSAL IS AN EFFECTIVE
 25 WAY TO REDUCE MERCURY POLLUTION.

26 ~~6-903.~~

- 27 ~~(A) A PERSON MAY NOT OFFER FOR SALE, SELL, OR PROVIDE IN THIS STATE~~
 28 ~~ELEMENTAL MERCURY.~~
- 29 ~~(B) A MANUFACTURER MAY NOT OFFER FOR SALE, SELL, OR PROVIDE IN THIS~~
 30 ~~STATE:~~
- 31 ~~(1) A MERCURY ADDED NOVELTY; OR~~
- 32 ~~(2) A MERCURY ADDED PRODUCT.~~

1 ~~6-904. 6-905.~~

2 (A) ~~ON OR AFTER OCTOBER 1, 2003, A PERSON MAY NOT DISPOSE OF MERCURY,~~
3 ~~A MERCURY-ADDED NOVELTY, OR A MERCURY-ADDED PRODUCT EXCEPT IN A~~
4 ~~MANNER THAT THE DEPARTMENT APPROVES UNDER REGULATIONS ADOPTED BY~~
5 ~~THE DEPARTMENT UNDER THIS SECTION.~~

6 (A) IN THIS SECTION, "MARKETER" MEANS A PERSON WHO MANUFACTURES,
7 ASSEMBLES, SELLS, DISTRIBUTES, AFFIXES A BRAND NAME OR PRIVATE LABEL TO,
8 OR LICENSSES THE USE OF A BRAND NAME ON A FEVER THERMOMETER CONTAINING
9 MERCURY.

10 (B) BEGINNING OCTOBER 1, 2002, A MARKETER MAY NOT SELL OR PROVIDE A
11 FEVER THERMOMETER CONTAINING MERCURY TO A CONSUMER EXCEPT BY
12 PRESCRIPTION.

13 (C) THIS SECTION DOES NOT APPLY TO:

14 (1) FEVER THERMOMETERS SOLD OR PROVIDED TO BE USED IN
15 HOSPITALS OR OTHER PLACES WHERE MEDICAL SERVICES ARE PROVIDED BY
16 MEDICAL SERVICE PROFESSIONALS; OR

17 (2) DIGITAL THERMOMETERS USING MERCURY-ADDED BUTTON CELL
18 BATTERIES.

19 ~~6-906.~~

20 (A) BEGINNING OCTOBER 1, 2003, NO PRIMARY OR SECONDARY SCHOOL,
21 EXCEPT FOR A SCHOOL ENGAGED IN VOCATIONAL TRAINING, MAY USE OR
22 PURCHASE FOR USE ELEMENTAL OR CHEMICAL MERCURY IN A PRIMARY OR
23 SECONDARY CLASSROOM.

24 (B) THE DEPARTMENT SHALL PROVIDE OUTREACH ASSISTANCE TO SCHOOLS
25 RELATING TO THE PROPER MANAGEMENT, RECYCLING, AND DISPOSAL OF MERCURY
26 AND MERCURY-ADDED PRODUCTS.

27 (B) ~~THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING THE~~
28 ~~DISPOSAL OF MERCURY, MERCURY-ADDED NOVELTIES, AND MERCURY-ADDED~~
29 ~~PRODUCTS.~~

30 ~~6-905.~~

31 ~~A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A~~
32 ~~MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING:~~

33 (1) ~~\$100 FOR THE FIRST VIOLATION;~~

34 (2) ~~\$250 FOR THE SECOND VIOLATION; AND~~

35 (3) ~~\$500 FOR THE THIRD AND EACH SUBSEQUENT VIOLATION.~~

1 ~~6-906, 6-907.~~

2 (A) THE DEPARTMENT SHALL IMPLEMENT A PUBLIC EDUCATION, OUTREACH,
3 AND ASSISTANCE PROGRAM FOR HOUSEHOLDS, WASTE GENERATORS, LOCAL AND
4 REGIONAL SOLID WASTE MANAGEMENT UNITS, VEHICLE DISMANTLERS,
5 INSTITUTIONS, AND SCHOOLS ON RELATING TO:

6 (1) THE HAZARDS OF MERCURY;

7 (2) THE REQUIREMENTS AND OBLIGATIONS OF PERSONS AND
8 MANUFACTURERS UNDER OF THIS SUBTITLE; AND

9 (3) VOLUNTARY EFFORTS THAT INDIVIDUALS, INSTITUTIONS, AND
10 BUSINESSES CAN UNDERTAKE TO HELP FURTHER REDUCE MERCURY IN THE
11 ENVIRONMENT.

12 (B) THE DEPARTMENT SHALL COOPERATE WITH NEIGHBORING STATES AND
13 REGIONAL ORGANIZATIONS IN THE MID-ATLANTIC AND NORTHEASTERN UNITED
14 STATES ON DEVELOPING OUTREACH, ASSISTANCE, AND EDUCATION PROGRAMS,
15 WHERE APPROPRIATE, ~~ON THE ITEMS COVERED UNDER SUBSECTION (A) OF THIS~~
16 ~~SECTION.~~

17 **Article - State Finance and Procurement**

18 14-406.

19 (A) IN THIS SECTION, "PREFERENCE" INCLUDES:

20 (1) A PERCENTAGE PRICE PREFERENCE; AND

21 (2) ANY OTHER PROVISION THAT FAVORS PRODUCTS OR EQUIPMENT
22 THAT ARE MERCURY FREE OR THAT CONTAIN THE LEAST AMOUNT OF MERCURY
23 NECESSARY TO MEET PRODUCT OR EQUIPMENT PERFORMANCE STANDARDS OVER
24 OTHER PRODUCTS.

25 (B) BEGINNING OCTOBER 1, 2003, ALL STATE AGENCIES SHALL GIVE
26 PREFERENCE TO PRODUCTS AND EQUIPMENT THAT ARE MERCURY FREE OR
27 CONTAIN THE LEAST AMOUNT OF MERCURY NECESSARY TO MEET PRODUCT OR
28 EQUIPMENT PERFORMANCE STANDARDS.

29 (C) THIS SECTION DOES NOT APPLY TO A CONTRACT OR PROCUREMENT
30 AGREEMENT IN EFFECT ON OCTOBER 1, 2001.

31 (D) THE BOARD MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

32 SECTION 2. AND BE IT FURTHER ENACTED, That;

33 (a) ~~the~~ The Department of the Environment shall report to the Governor, the
34 Senate Economic and Environmental Affairs Committee, and the House

1 Environmental Matters Committee on or before October 1 in 2002, 2003, and 2004 in
2 accordance with § 2-1246 of the State Government Article.

3 (b) The reports required under this section shall: ~~(a)~~

4 (1) review the effectiveness of this Act; ~~and (b) make any~~
5 ~~recommendations for changes to this Act to improve efforts to reduce the use of~~
6 ~~mercury and the incidence of mercury in the waste stream~~

7 (2) report on legislation enacted in other states to require labeling of
8 mercury and products that contain mercury and to specifically regulate mercury and
9 products containing mercury in the waste stream; and

10 (3) make any recommendations for changes to this Act to improve efforts
11 to reduce the use of mercury and the incidence of mercury in the waste stream.

12 (c) The report required to be submitted on or before October 1, 2003 in this
13 section shall also:

14 (1) include information regarding the products, processes, and
15 components of products and processes that contain mercury and are likely to be
16 disposed of in wastewater, landfills, or incinerators;

17 (2) denominate the contribution of the various sources of mercury in
18 each disposal method; and

19 (3) recommend priorities for the regulation of use and disposal of each
20 source of mercury in order to minimize mercury contamination in the environment.

21 SECTION 3. AND BE IT FURTHER ENACTED, That the Children's
22 Environmental Health and Protection Advisory Council shall, by October 1, 2002:

23 (a) conduct a survey of primary and secondary schools in the State that are
24 regulated under § 6-906 of the Environment Article as enacted by this Act to
25 determine how many schools have elemental or chemical mercury that will be
26 prohibited for use under this Act; and

27 (b) report to the Department of the Environment, the Governor, and, subject
28 to § 2-1246 of the State Government Article, the General Assembly on:

29 (1) the number and location of primary and secondary schools in the
30 State that are regulated under this Act that have elemental or chemical mercury; and

31 (2) any recommendations to create a program to collect the mercury from
32 these schools and dispose of it in accordance with regulations adopted by the
33 Department of the Environment.

34 SECTION 3-4. AND BE IT FURTHER ENACTED, That this Act shall take
35 effect October 1, 2001.

