

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE
Revised

House Bill 75 (Delegate Hubbard)

Environmental Matters

Economic and Environmental Affairs

Environment - Mercury and Products that Contain Mercury

This bill prohibits a marketer, with specified exceptions, from selling or providing a fever thermometer containing mercury to a consumer except by prescription beginning October 1, 2002. Beginning October 1, 2003, no primary or secondary school, with specified exceptions, may use or purchase for use elemental or chemical mercury in a primary or secondary classroom. The bill requires the Maryland Department of the Environment (MDE) to provide outreach assistance to schools and to implement a public education, outreach, and assistance program relating to mercury in the environment. Beginning October 1, 2003, all State agencies must give “preference” to products and equipment that are mercury free or contain the least amount of mercury necessary to meet performance standards. The bill also establishes reporting requirements for MDE and the Children’s Environmental Health and Protection Advisory Council.

Fiscal Summary

State Effect: General fund expenditure increase of \$77,000 in FY 2002 for MDE to conduct public education, outreach, and assistance and to research and prepare the required reports. Future year estimates are annualized, adjusted for inflation, and reflect ongoing operating costs. Potential impact on general fund expenditures beginning in FY 2004 for State agencies to give preference to specified products/equipment. No effect on revenues.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	77,000	93,200	98,100	103,300	108,900
Net Effect	(\$77,000)	(\$93,200)	(\$98,100)	(\$103,300)	(\$108,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill's prohibition relating to thermometers does not apply to: (1) fever thermometers sold or provided to be used in hospitals or other places where medical services are provided by medical service professionals; or (2) digital thermometers using mercury-added button cell batteries. The bill's prohibition relating to the use of mercury in schools does not apply to schools engaged in vocational training.

The Board of Public Works may adopt regulations to implement the bill's provision relating to giving preference to products and equipment by State agencies. The bill's provision relating to preference does not apply to a contract or procurement agreement in effect on October 1, 2001.

MDE must provide outreach assistance to schools relating to the proper management, recycling, and disposal of mercury and mercury-added products. MDE must implement a public education, outreach, and assistance program relating to: (1) the hazards of mercury; (2) the requirements of the bill; and (3) voluntary efforts that individuals, institutions, and businesses can undertake to help further reduce mercury in the environment. MDE must cooperate with neighboring states and regional organizations in the Mid-Atlantic and northeastern U.S. on developing outreach, assistance, and education programs, where appropriate.

MDE must report to the Governor and specified committees of the General Assembly by October 1, 2002, 2003, and 2004. The reports must review the effectiveness of the legislation, report on legislation in other states, and make recommendations for changes to the legislation to improve efforts to reduce the use of mercury and the incidence of mercury in the waste stream. The report due on October 1, 2003 must also address other specified information and recommend priorities for the regulation of use and disposal of sources of mercury. The bill also requires that the Children's Environmental Health and Protection Advisory Council conduct a survey related to mercury use in primary and secondary schools and report to MDE, the Governor, and the General Assembly on its findings and related recommendations by October 1, 2002.

"Marketer" means a person who manufactures, assembles, distributes, affixes a brand name or private label to, or licenses the use of a brand name on a fever thermometer containing mercury. "Preference" includes a percentage price preference and any other provision that favors products or equipment that are mercury free or contain the least

amount of mercury necessary to meet product or equipment performance standards over other products.

Current Law: A person may not sell, distribute, or offer for sale in Maryland a mercuric oxide battery unless: (1) the person is a party to a plan approved by MDE; or (2) a retailer or seller has provided for the collection, recycling, or proper disposal of used mercuric oxide batteries through the sale to a refiner or a refiner's agent and the retailer or seller has complied with specified requirements. A person may not dispose of a mercuric oxide battery except in a manner that MDE approves under regulations.

A manufacturer or distributor cannot sell or offer for promotional purposes, any package or packaging component to which mercury was intentionally added.

Background: Mercury is a naturally occurring element that is found in air, water, and soil. In small quantities, it can conduct electricity, measure temperature and pressure, and act as a catalyst in industrial processes. However, it does not degrade and is not destroyed by combustion; rather, it is a persistent and toxic pollutant that bioaccumulates in the environment. Accordingly, mercury can reach dangerous levels in fish, even when released in small quantities. Consumption of mercury-contaminated fish poses a significant health threat. According to the U.S. Environmental Protection Agency, 37 states have issued fish consumption advisories due to mercury contamination.

Some of the mercury in the environment comes from natural sources such as marine and aquatic environments as well as volcanic and geothermal activity. However, recent studies suggest that anthropogenic sources, such as atmospheric deposition, the combustion of municipal and other solid waste, incineration, manufacturing processes, and accidental spills account for the majority of mercury releases into the environment.

Federal and state agencies across the nation are exploring efforts to curtail the use of mercury in order to focus on prevention opportunities. MDE's regulatory programs govern the management and disposal of wastes containing heavy metals such as mercury as both hazardous waste and non-hazardous solid waste. Other MDE permit programs restrict or limit the release of mercury into the environment through water and atmospheric discharges. According to MDE, several states in the northeast region are in the process of enacting or have enacted legislation to restrict or limit certain products containing mercury or mercury compounds.

MDE also advises that the sale of fever thermometers containing mercury is being phased out nationally.

State Expenditures: General fund expenditures could increase by an estimated \$77,000 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. This estimate

reflects the cost of hiring two environmental specialists to conduct public outreach, educational, and assistance activities, and to research and prepare the required reports. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- MDE will expand its existing public outreach and educational activities to specifically address mercury;
- MDE will be required to collect and analyze data in order to assess the effectiveness of the legislation and prepare the required reports;
- MDE will conduct two to three mailings annually, with approximately 1,000 brochures or similar materials per mailing;
- MDE will print outreach materials in-house; and
- employee travel.

Salaries and Fringe Benefits	\$61,600
Equipment	9,600
Printing	3,800
Other Operating Expenses	<u>2,000</u>
Total FY 2002 State Expenditures	\$77,000

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses including printing costs to update outreach materials. Legislative Services advises that costs related to the development of materials could decrease in future years depending on the need to update existing materials. Any such decrease is speculative and cannot be reliably estimated.

It is assumed that the Children’s Environmental Health and Protection Advisory Council could complete the required survey and report with existing budgeted resources. The bill’s prohibition relating to schools will have no fiscal impact on the Maryland State Department of Education (MSDE) and will not affect State aid for education.

As a user of products containing mercury, State agencies could incur increased costs beginning in fiscal 2004 to give preference to products and equipment that are mercury free or contain the least amount of mercury necessary to meet product or equipment performance standards. On the other hand, to the extent that those products and equipment are cheaper than those which are currently used, costs could decrease. The impact is unknown at this time and depends largely on the availability of such products

and any difference in the price for those products. According to the Department of General Services (DGS), implementation and enforcement of this provision may prove difficult. DGS advises that it does not know which products currently contain mercury and how it would verify the amount of mercury in products/equipment that it would consider in the future. In addition, the extent to which a percentage price preference is implemented will depend largely on any regulations adopted by the Board of Public Works.

Local Expenditures: The bill's prohibition relating to the use of mercury in schools is not anticipated to significantly affect local boards of education. According to MSDE, eliminating the use of mercury in public schools has been an ongoing effort. Accordingly, finding alternative instructional materials and/or methods is not anticipated to significantly increase local expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of General Services; Department of Health and Mental Hygiene; Maryland State Department of Education; U.S. Environmental Protection Agency; Calvert, Caroline, Howard, Montgomery, and Prince George's counties; Department of Legislative Services

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