

HB1263/130711/1

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 1263
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Shewell” and substitute “Shewell, and Manno”; in line 9, strike “requiring” and substitute “authorizing”; in line 10, strike “status” and substitute “adequacy”; in line 11, after “days,” insert “requiring a vehicle recycler to remove mercury switches from end-of-life vehicle inventory and vehicles processed into their inventory within a certain period of time;”; in line 14, after “circumstances,” insert “providing that certain fees, fines, and penalties be deposited in the State Recycling Trust Fund;”; strike beginning with “requiring” in line 18 down through “circumstances;” in line 22 and substitute “requiring the Department to submit a certain report to the General Assembly each year on or before a certain date; establishing a certain capture rate goal for a certain year; defining certain terms;”; and in line 26, strike “and 6-905” and substitute “, 6-905, and 19-1707(f)”.

AMENDMENT NO. 2

On page 2, in line 28, strike “**REMOVAL**” and substitute “**RECOVERY**”.

On page 3, in line 3, after “**VEHICLES**” insert “**FOR THAT YEAR**”; and in line 6, after “**OF**” insert “**RESALE OF ITS PARTS OR**”.

On page 4, in line 1, strike “**LIGHT,**” and substitute “**LIGHT OR AN**”; in line 2, strike “**SYSTEM, OR OTHER**” and substitute “**SYSTEM**”; in line 12, strike “**RECYCLING**” and substitute “**PROCESSING**”; strike beginning with “**FIXED**” in line 12 down through “**METALLIC SCRAP**” in line 15 and substitute “**FACILITY:**”

(1) THAT PROCESSES IRON, STEEL, AND NONFERROUS SCRAP METAL; AND

(Over)

(2) THE PRINCIPAL PRODUCT OF WHICH IS SCRAP IRON, SCRAP STEEL, AND NONFERROUS SCRAP”;

in line 25, after “(O)” insert “**(1)**”; strike beginning with “ACQUIRING” in line 26 down through “PARTS.” in line 28 and substitute “:

(I) DISMANTLING, DESTROYING, OR SCRAPPING ANY VEHICLE FOR THE PURPOSE OF RESELLING ANY OF ITS USABLE PARTS; OR

(II) OTHERWISE ACQUIRING VEHICLES FOR THE BENEFIT OF THEIR PARTS OR THE MATERIALS IN THEM.

(2) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, ANY REFERENCE TO A WRECKER IN ANY STATUTE, RULE, OR REGULATION SHALL APPLY TO A VEHICLE RECYCLER.”;

in line 30, strike “A”; in the same line, strike “MANUFACTURER” and substitute “**MANUFACTURERS**”; in the same line, strike “SELLS” and substitute “**SOLD**”; and in line 31, after “STATE” insert “**THAT CONTAINED MERCURY SWITCHES**”.

AMENDMENT NO. 3

On page 5, in line 1, after “(B)”, insert “**(1)**”; in the same line, strike “A”; in the same line, strike “MANUFACTURER” and substitute “**MANUFACTURERS, INDIVIDUALLY OR AS A GROUP,**”; after line 3, insert:

“(2) A VEHICLE MANUFACTURER IN THE STATE THAT ALREADY HAS PROCESSES AND PROCEDURES IN PLACE THAT MEET OR EXCEED THE REQUIREMENTS OF THIS SECTION MAY PROPOSE THE USE OF THOSE PROCESSES AND PROCEDURES IN ITS MERCURY MINIMIZATION PLAN.”;

in line 12, after “**MATERIAL**” insert “**AND TRAINING MATERIALS**”; and in lines 26 and 29, in each instance, after “**FOR**” insert “**THE PROPER MANAGEMENT OF**”.

On page 6, in lines 3 and 8, in each instance, strike “**\$3**” and substitute “**\$4**”; in lines 3 and 8, in each instance, after “**MERCURY**” insert “**LIGHT**”; in lines 4 and 9, in each instance, strike “**OR MERCURY SWITCH ASSEMBLY**” and substitute “**AND \$6 FOR EACH ANTILOCK BREAKING SWITCH**”; in line 16, after “**SUBTITLE**” insert “**TO THE STATE RECYCLING TRUST FUND**”; in line 32, strike “**60**” and substitute “**90**”; and in line 33, strike “**SHALL**” and substitute “**MAY**”.

On page 7, strike beginning with “**IF**” in line 4 down through “**THE**” in line 5 and substitute “**THE**”; in line 5, after “**IMPLEMENTATION**” insert “**OF THE MERCURY MINIMIZATION PLAN**”; in line 6, strike “**APPROVAL, OR AS OTHERWISE DETERMINED**” and substitute “**SUBMITTAL, UNLESS OTHERWISE DIRECTED**”; in line 13, strike “**APPROVE**” and substitute “**DISAPPROVE**”; in line 14, after “**THAT**” insert “**DO NOT**”; strike beginning with “**AND**” in line 15 down through “**REQUIREMENTS**” in line 16; in line 18, after “**PLAN**” insert “**NOT DISAPPROVED**”; in line 19, strike “**APPROVAL**” and substitute “**SUBMITTAL**”; in the same line, strike “**DETERMINED**” and substitute “**DIRECTED**”; in line 24, strike “**SHALL**” and substitute “**MAY**”; and strike in their entirety lines 27 through 35, inclusive.

On page 8, in line 5, strike “**APPROVED**” and substitute “**SUBMITTED**”; and in line 8, after “**DEFICIENT**” insert “**OR NOT MEETING THE GOALS OF THIS ACT**”.

AMENDMENT NO. 4

On page 8, strike beginning with “**WITHIN**” in line 17 down through “**PLAN,**” in line 19 and substitute “**ON AND AFTER DECEMBER 1, 2009,**”; in line 23, strike “**PLAN FROM**” and substitute “**PLAN:**”

(Over)

(I) FROM;

in line 24, after “FACILITY” insert “;

(II) FROM THE END-OF-LIFE VEHICLE AT THE TIME THE VEHICLE IS PROCESSED, BUT NOT LATER THAN 180 DAYS AFTER THE RECEIPT OF AN END-OF-LIFE VEHICLE; AND

(III) ON OR BEFORE DECEMBER 31, 2010, FOR RECYCLING, FROM THE VEHICLE RECYCLER’S INVENTORY IN EXISTENCE AS OF SEPTEMBER 30, 2009;

strike in their entirety lines 25 and 26; and in lines 27 and 30, strike “(3)” and “(4)”, respectively, and substitute “(2)” and “(3)”, respectively.

On page 9, in line 12, after “MAINTAIN” insert “ELECTRONIC”; in line 18, after “BE” insert “KEPT FOR 3 YEARS AND”; in line 27, after “TRANSPORTED,” insert “RECYCLED,”; and strike beginning with “AFTER” in line 32 down through “SUBTITLE” in line 34 and substitute “BEFORE JANUARY 31 OF EACH YEAR”.

On page 10, in line 8, after “90%” insert “FOR THE PREVIOUS CALENDAR YEAR”; in line 11, strike “END-OF-LIFE VEHICLES” and substitute “MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES”; in line 19, after “VEHICLES” insert “WILL, BY THE END OF DECEMBER 2020,”; after line 20, insert:

“(I) AFTER DECEMBER 1, 2011, IF THE DEPARTMENT DETERMINES THAT AN INSUFFICIENT NUMBER OF MERCURY SWITCHES HAVE BEEN RECYCLED, THE DEPARTMENT MAY PROPOSE NEW STRATEGIES TO INCREASE SWITCH REMOVAL AND RECYCLING, INCLUDING ADDITIONAL FUNDING SOURCES.

(J) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE DEPARTMENT OF THE ENVIRONMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(I) THE NUMBER OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES RECOVERED FROM VEHICLES;

(II) THE CAPTURE RATE OF SWITCH RECOVERY ACHIEVED;

(III) THE NUMBER OF SWITCHES PROJECTED TO BE RECOVERED;

(IV) THE AMOUNT AND USE OF FUNDS PAID INTO THE STATE RECYCLING TRUST FUND FOR THE ADMINISTRATION OF THIS ACT; AND

(V) ANY RECOMMENDATIONS TO IMPROVE THE PROVISIONS OF THIS ACT OR TO INCREASE THE CAPTURE RATE OF MERCURY SWITCHES FROM VEHICLES.

(2) THE DEPARTMENT SHALL ALSO INFORM THE GENERAL ASSEMBLY IF THE DEPARTMENT DETERMINES THAT MERCURY SWITCHES IN END-OF-LIFE VEHICLES NO LONGER POSE A SIGNIFICANT RISK TO THE ENVIRONMENT OR TO PUBLIC HEALTH.”;

in line 21, strike “(I)” and substitute “(K)”; and in the same line, strike “SHALL” and substitute “MAY”.

(Over)

AMENDMENT NO. 5

On pages 10 through 12, strike in their entirety the lines beginning with line 24 on page 10 through line 24 on page 12, inclusive, and substitute:

“(A) A PERSON THAT VIOLATES ANY PROVISION OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, OR ANY REGULATION ADOPTED TO IMPLEMENT THE PROVISIONS OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

- (1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000;
- (2) FOR A SECOND OFFENSE, A FINE NOT EXCEEDING \$2,500; AND
- (3) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$5,000.

(B) A PERSON THAT VIOLATES ANY PROVISION OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, OR ANY REGULATION ADOPTED TO IMPLEMENT THE PROVISIONS OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, IS LIABLE FOR A CIVIL PENALTY TO BE COLLECTED IN A CIVIL ACTION IN THE CIRCUIT COURT FOR ANY COUNTY IN THE STATE NOT EXCEEDING:

- (1) \$1,000 FOR A FIRST OFFENSE;
- (2) \$2,500 FOR A SECOND OFFENSE; OR
- (3) \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.

(C) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY, AFTER AN OPPORTUNITY FOR A HEARING, THE DEPARTMENT MAY

IMPOSE A FINE FOR EACH VIOLATION OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, OR OF ANY REGULATION ADOPTED UNDER § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, NOT EXCEEDING:

- (I) \$1,000 FOR A FIRST OFFENSE;
- (II) \$2,500 FOR A SECOND OFFENSE; OR
- (III) \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.

(2) THE DEPARTMENT SHALL CONSIDER THE FOLLOWING IN ASSESSING THE FINE IN PARAGRAPH (1) OF THIS SUBSECTION:

- (I) THE WILLFULNESS OF THE VIOLATION;
- (II) THE EXTENT TO WHICH THE VIOLATION WAS KNOWN, BUT UNCORRECTED, BY THE VIOLATOR;
- (III) THE EXTENT TO WHICH THE VIOLATION RESULTED IN ACTUAL HARM TO HUMAN HEALTH OR THE ENVIRONMENT;
- (IV) THE NATURE AND DEGREE OF INJURY TO, OR INTERFERENCE WITH, GENERAL WELFARE AND HEALTH; AND
- (V) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION BY THE VIOLATOR.

(D) EACH DAY A VIOLATION CONTINUES IS A SEPARATE OFFENSE UNDER THIS SECTION.

(Over)

(E) FINES AND PENALTIES COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN THE STATE RECYCLING TRUST FUND.

9-1707.

(f) (1) There is a State Recycling Trust Fund.

(2) The Fund shall consist of:

(i) The newsprint recycling incentive fee;

(ii) The telephone directory recycling incentive fee collected under § 9-1709 of this subtitle;

(iii) The covered electronic device manufacturer registration fee collected under § 9-1728 of this subtitle;

(iv) **THE MERCURY LIGHT SWITCH, ANTILOCK BRAKING SWITCH, OR MERCURY SWITCH ASSEMBLY REMOVAL FEES COLLECTED UNDER § 6-905.4(C)(6)(III)3 OF THIS ARTICLE;**

(v) All fines and penalties collected under this subtitle **AND UNDER §§ 6-905.4 AND 6-905.6 OF THIS ARTICLE;**

[(v)] (VI) Money appropriated in the State budget to the Fund;
and

[(vi)] (VII) Any other money from any other source accepted for the benefit of the Fund.

(3) The Secretary shall administer the Fund.

(4) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(5) At the end of each fiscal year, any unspent or unencumbered balance in the Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in accordance with § 7–302 of the State Finance and Procurement Article.

(6) In accordance with the State budget, the Fund shall be used only:

(i) To provide grants to the counties to be used by the counties to develop and implement local recycling plans;

(ii) To provide grants to counties that have addressed methods for the separate collection and recycling of covered electronic devices in accordance with § 9–1703(c)(1) of this subtitle;

(iii) To provide grants to municipalities to be used by the municipalities to implement local covered electronic device recycling programs; and

(iv) To carry out the purposes of the Office of Recycling under this subtitle AND UNDER TITLE 6, SUBTITLE 9 OF THIS ARTICLE.

(7) (i) The Treasurer shall invest the money in the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.”.

AMENDMENT NO. 6

On pages 12 and 13, strike in their entirety the lines beginning with line 25 on page 12 through line 19 on page 13, inclusive, and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That the capture rate goal for a mercury switch or mercury switch assembly shall be at least 90% in 2010.”;

and in line 20, strike “4.” and substitute “3.”.