

# HOUSE BILL 1263

M3

(9lr2785)

## ENROLLED BILL

—*Environmental Matters / Education, Health, and Environmental Affairs*—

Introduced by **Delegates Huckler, O'Donnell, ~~and Shewell~~ Shewell, and Manno**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Mercury Switch Removal from Vehicles**

3 FOR the purpose of requiring motor vehicle manufacturers to develop a mercury  
4 minimization plan that includes information on mercury switch removal from  
5 motor vehicles; requiring certain manufacturers to submit a certain plan to the  
6 Department of the Environment within a certain number of days after the  
7 enactment date of this Act; establishing certain requirements for a mercury  
8 minimization plan; requiring vehicle manufacturers to pay certain costs  
9 associated with mercury switch removal; ~~requiring~~ authorizing the Department  
10 to review the plan and make a determination about the ~~status~~ adequacy of the  
11 plan within a certain number of days; requiring a vehicle recycler to remove  
12 mercury switches from end-of-life vehicle inventory and vehicles processed into  
13 their the vehicle recycler's inventory within a certain period of time; authorizing  
14 the Department to impose certain penalties for violators of a mercury  
15 minimization plan; authorizing a scrap ~~recycling~~ processing facility to accept

---

**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber / conference committee amendments.*



1 end-of-life vehicles that contain mercury switches under certain circumstances;  
 2 providing that certain fees, fines, and penalties be deposited in the State  
 3 Recycling Trust Fund; defining certain terms; authorizing the Department to  
 4 adopt rules and regulations to administer the plan; requiring an annual report  
 5 containing certain information to be submitted to the Department; requiring  
 6 certain vehicle manufacturers to report certain information to the Department  
 7 on or before a certain date; ~~requiring the Department to make a certain~~  
 8 ~~determination; making this Act subject to a certain contingency; requiring the~~  
 9 ~~Department to forward a copy of a certain determination to the Department of~~  
 10 ~~Legislative Services; providing for the termination of this Act under certain~~  
 11 ~~circumstances~~; requiring the Department to submit a certain report to the  
 12 General Assembly each year on or before a certain date; establishing a certain  
 13 capture rate goal for a certain year; defining certain terms; *providing for the*  
 14 *termination of this Act*; and generally relating to mercury switch removal from  
 15 motor vehicles.

16 BY repealing and reenacting, with amendments,  
 17 Article – Environment  
 18 Section 6-904 ~~and 6-905~~, 6-905, and 19-1707(f)  
 19 Annotated Code of Maryland  
 20 (2007 Replacement Volume and 2008 Supplement)

21 BY adding to  
 22 Article – Environment  
 23 Section 6-905.4 through 6-905.6  
 24 Annotated Code of Maryland  
 25 (2007 Replacement Volume and 2008 Supplement)

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

28 **Article – Environment**

29 6-904.

30 The General Assembly finds that:

31 (1) Mercury is a persistent and toxic pollutant that bioaccumulates in  
 32 the environment;

33 (2) Consumption of mercury-contaminated fish poses a significant  
 34 health threat;

35 (3) Combustion of municipal and other solid waste is a source of  
 36 mercury pollution;

1           **(4) MANUFACTURE OF NEW STEEL FROM MERCURY-CONTAINING**  
2 **SCRAP STEEL IS A SIGNIFICANT SOURCE OF MERCURY POLLUTION;**

3           **[(4)] (5)** Both industry and government are working to reduce the  
4 content of mercury in products and to control the release of mercury into the  
5 environment;

6           **[(5)] (6)** Accidental mercury spills, breakages, and releases have  
7 occurred at schools in the United States, exposing students, teachers, and  
8 administrators to mercury emissions; [and]

9           **[(6)] (7)** Removal of mercury and mercury containing products from  
10 the waste stream prior to combustion or disposal is an effective way to reduce mercury  
11 pollution; **AND**

12           **(8) THE VOLUNTARY NATIONAL VEHICLE MERCURY SWITCH**  
13 **~~REMOVAL~~ RECOVERY PROGRAM HAS NOT REMOVED A SUFFICIENT**  
14 **PERCENTAGE OF MERCURY-CONTAINING SWITCHES IN THE STATE TO PROTECT**  
15 **THE ENVIRONMENT.**

16 6-905.

17           (a) In this part the following words have the meanings indicated.

18           **(B) “CAPTURE RATE” MEANS THE ANNUAL REMOVAL, COLLECTION,**  
19 **AND RECOVERY OF MERCURY SWITCHES AS A PERCENTAGE OF TOTAL NUMBER**  
20 **OF MERCURY SWITCHES AVAILABLE FROM END-OF-LIFE VEHICLES FOR THAT**  
21 **YEAR.**

22           **(C) “END-OF-LIFE VEHICLE” MEANS A MOTOR VEHICLE THAT IS SOLD,**  
23 **GIVEN, OR OTHERWISE CONVEYED TO A VEHICLE RECYCLER OR SCRAP**  
24 **~~RECYCLING~~ PROCESSING FACILITY FOR THE PURPOSE OF RESALE OF ITS PARTS**  
25 **OR RECYCLING.**

26           **[(b)] (D)** “Manufacturer” means a person that:

27           (1) Produces a product;

28           (2) For a multicomponent product, produces or assembles the final  
29 product; or

30           (3) Serves as an importer or domestic distributor of a product  
31 produced outside of the United States.

1            [(c)] (E)        “Marketer” means a person that manufactures, assembles, sells,  
2 distributes, affixes a brand name or private label to, or licenses the use of a brand  
3 name on:

4            (1)        A fever thermometer containing mercury; or

5            (2)        A thermostat containing mercury.

6            [(d)] (F)        “Mercury-added product” means any of the following products if  
7 containing elemental mercury or a mercury compound that has been added to the  
8 product for any reason:

9            (1)        Dyes or pigments;

10           (2)        Electric switches; and

11           (3)        Fluorescent lamps.

12           (G)        **“MERCURY MINIMIZATION PLAN” MEANS A PLAN FOR REMOVING,**  
13 **COLLECTING, AND RECOVERING MERCURY SWITCHES FROM AN END-OF-LIFE**  
14 **VEHICLE.**

15           (H)        **“MERCURY SWITCH” MEANS ANY LIGHT SWITCH OR ANTILOCK**  
16 **BRAKING SYSTEM SWITCH THAT CONTAINS MERCURY AND THAT IS INSTALLED**  
17 **BY A MANUFACTURER IN A MOTOR VEHICLE.**

18           (I)        **“MERCURY SWITCH ASSEMBLY” MEANS A ~~LIGHT,~~ LIGHT SWITCH**  
19 **ASSEMBLY OR AN ANTILOCK BRAKING SYSTEM, OR OTHER SYSTEM SWITCH**  
20 **ASSEMBLY THAT CONTAINS A MERCURY SWITCH.**

21           [(e)] (J)        “Motor vehicle” has the meaning stated in § 11-135 of the  
22 Transportation Article.

23           [(f)] (K)        “Reclamation facility” means a site:

24           (1)        Where equipment is used to recapture mercury from  
25 mercury-added fluorescent lamps for the purpose of recycling or reusing the mercury;  
26 or

27           (2)        That collects mercury containing components from mercury-added  
28 fluorescent lamps for the eventual recapture and recycling or reuse of the mercury.

29           (L)        **“SCRAP ~~RECYCLING PROCESSING FACILITY~~” MEANS A ~~FIXED~~**  
30 **~~LOCATION WHERE MACHINERY AND EQUIPMENT ARE USED FOR PROCESSING~~**  
31 **~~AND MANUFACTURING SCRAP METAL INTO PREPARED GRADES AND THE~~**

1 ~~PRINCIPAL PRODUCT IS SCRAP IRON, STEEL, OR NONFERROUS METALLIC SCRAP~~  
 2 FACILITY:

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

5 (2) THE PRINCIPAL PRODUCT OF WHICH IS SCRAP IRON, SCRAP  
 6 STEEL, AND NONFERROUS SCRAP FOR SALE AND REMELTING PURPOSES.

7 [(g)] (M) "Thermostat" means a device that regulates temperature in an  
 8 enclosed area by controlling heating, cooling, or ventilation equipment.

9 (N) "VEHICLE MANUFACTURER" MEANS A PERSON THAT:

10 (1) IS THE LAST PERSON IN THE PRODUCTION OR ASSEMBLY  
 11 PROCESS OF A NEW MOTOR VEHICLE THAT USES MERCURY SWITCHES; OR

12 (2) SERVES AS AN IMPORTER OR DOMESTIC DISTRIBUTOR OF A  
 13 MOTOR VEHICLE THAT USES MERCURY SWITCHES PRODUCED OUTSIDE OF THE  
 14 UNITED STATES.

15 (O) (1) "VEHICLE RECYCLER" MEANS A PERSON ENGAGED IN THE  
 16 BUSINESS OF ~~ACQUIRING, DISMANTLING, OR DESTROYING SIX OR MORE~~  
 17 ~~END-OF-LIFE VEHICLES IN A CALENDAR YEAR FOR THE PRIMARY PURPOSE OF~~  
 18 ~~RESALE AND PARTS.:~~

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

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

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

26 **6-905.4.**

27 (A) THIS SECTION APPLIES TO ~~A VEHICLE MANUFACTURER~~  
 28 MANUFACTURERS THAT ~~SELLS~~ SOLD MOTOR VEHICLES WITHIN THE STATE  
 29 THAT CONTAINED MERCURY SWITCHES.

30 (B) (1) ON OR BEFORE SEPTEMBER 30, 2009, ~~A VEHICLE~~  
 31 MANUFACTURER MANUFACTURERS, INDIVIDUALLY OR AS A GROUP, SHALL

1 DEVELOP A MERCURY MINIMIZATION PLAN AND SUBMIT IT TO THE  
2 DEPARTMENT FOR REVIEW AND APPROVAL.

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

7 (c) THE PLAN SHALL CONTAIN:

8 (1) INFORMATION IDENTIFYING THE MAKE, MODEL, AND YEAR OF  
9 VEHICLES THAT MAY CONTAIN A MERCURY SWITCH, INCLUDING:

10 (i) THE LOCATION OF THE SWITCH;

11 (ii) THE LOCATION OF A MERCURY SWITCH ASSEMBLY; AND

12 (iii) INFORMATION REGARDING THE SAFE AND  
13 ENVIRONMENTALLY SOUND METHOD FOR REMOVING THE SWITCH FROM  
14 END-OF-LIFE VEHICLES;

15 (2) EDUCATIONAL MATERIAL AND TRAINING MATERIALS TO  
16 ASSIST A VEHICLE RECYCLER OR A SCRAP ~~RECYCLING~~ PROCESSING FACILITY  
17 UNDERTAKING A SAFE METHOD FOR REMOVAL OF MERCURY SWITCHES AND  
18 ASSEMBLIES, INCLUDING INFORMATION ON THE HAZARDS AND PROPER  
19 HANDLING OF MERCURY;

20 (3) A PROPOSAL FOR THE METHOD OF STORAGE OR DISPOSAL OF  
21 MERCURY SWITCHES AND ASSEMBLIES, INCLUDING THE METHOD OF  
22 PACKAGING AND SHIPPING;

23 (4) A PROPOSAL FOR THE STORAGE OF MERCURY SWITCHES AND  
24 MERCURY SWITCH ASSEMBLIES COLLECTED AND RECOVERED IN THE EVENT  
25 THAT APPROPRIATE MANAGEMENT TECHNOLOGIES ARE NOT AVAILABLE;

26 (5) A PLAN FOR IMPLEMENTING AND FINANCING THE REMOVAL,  
27 COLLECTION, AND RECOVERY SYSTEM, IN ACCORDANCE WITH ITEM (6) OF THIS  
28 SUBSECTION; AND

29 (6) INFORMATION THAT ESTABLISHES THE FINANCING OF THE  
30 REMOVAL, COLLECTION, AND RECOVERY SYSTEM FOR THE PROPER  
31 MANAGEMENT OF MERCURY SWITCHES, INCLUDING:

1 (I) PAYMENT BY A VEHICLE MANUFACTURER FOR THE  
2 COSTS ASSOCIATED WITH THE REMOVAL, COLLECTION, AND RECOVERY FOR  
3 THE PROPER MANAGEMENT OF MERCURY SWITCHES;

4 (II) ESTABLISHMENT BY A VEHICLE MANUFACTURER OF A  
5 METHOD TO ENSURE THE PROMPT PAYMENT TO A VEHICLE RECYCLER, A SCRAP  
6 ~~RECYCLING~~ PROCESSING FACILITY, AND THE DEPARTMENT;

7 (III) PAYMENT BY A MANUFACTURER OF THE FOLLOWING  
8 COSTS:

9 1. A MINIMUM OF ~~\$3~~ \$4 FOR EACH MERCURY LIGHT  
10 SWITCH OR LIGHT SWITCH ASSEMBLY ~~OR MERCURY SWITCH ASSEMBLY~~ AND \$6  
11 FOR EACH ANTILOCK ~~BREAKING~~ BRAKING SYSTEM SWITCH ASSEMBLY REMOVED  
12 BY A VEHICLE RECYCLER IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE AS  
13 PARTIAL COMPENSATION FOR THE LABOR AND OTHER COSTS INCURRED BY A  
14 VEHICLE RECYCLER IN THE REMOVAL OF THE MERCURY SWITCH OR MERCURY  
15 SWITCH ASSEMBLY;

16 2. A MINIMUM OF ~~\$3~~ \$4 FOR EACH MERCURY LIGHT  
17 SWITCH OR LIGHT SWITCH ASSEMBLY ~~OR MERCURY SWITCH ASSEMBLY~~ AND \$6  
18 FOR EACH ANTILOCK ~~BREAKING~~ BRAKING SYSTEM SWITCH ASSEMBLY REMOVED  
19 BY A SCRAP ~~RECYCLING~~ PROCESSING FACILITY IN ACCORDANCE WITH § 6-905.5  
20 OF THIS SUBTITLE AS PARTIAL COMPENSATION FOR THE LABOR AND OTHER  
21 COSTS INCURRED BY A SCRAP ~~RECYCLING~~ PROCESSING FACILITY IN THE  
22 REMOVAL OF THE MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY; AND

23 3. \$1 FOR EACH MERCURY SWITCH OR MERCURY  
24 SWITCH ASSEMBLY REMOVED BY A VEHICLE RECYCLER OR BY A SCRAP  
25 ~~RECYCLING~~ PROCESSING FACILITY IN ACCORDANCE WITH § 6-905.5 OF THIS  
26 SUBTITLE TO THE STATE RECYCLING TRUST FUND AS PARTIAL COMPENSATION  
27 FOR THE DEPARTMENT FOR COSTS INCURRED IN ADMINISTERING AND  
28 ENFORCING THE PROVISIONS OF THIS SUBTITLE;

29 (IV) PACKAGING FOR TRANSPORTING MERCURY SWITCHES  
30 AND MERCURY SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL  
31 FACILITIES;

32 (V) SHIPPING OF MERCURY SWITCHES AND MERCURY  
33 SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL FACILITIES;

34 (VI) RECYCLING, STORAGE, OR DISPOSAL OF THE MERCURY  
35 SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL FACILITIES;

1 (VII) PREPARATION AND DISTRIBUTION TO VEHICLE  
2 RECYCLERS AND SCRAP ~~RECYCLING~~ PROCESSING FACILITIES OF THE  
3 EDUCATIONAL MATERIALS REQUIRED IN ACCORDANCE WITH PARAGRAPH (2) OF  
4 THIS SUBSECTION; AND

5 (VIII) MAINTENANCE OF ALL APPROPRIATE  
6 RECORD KEEPING SYSTEMS.

7 (D) (1) WITHIN ~~60~~ 90 DAYS AFTER RECEIVING A MERCURY  
8 MINIMIZATION PLAN, THE DEPARTMENT ~~SHALL~~ MAY APPROVE, DISAPPROVE,  
9 OR CONDITIONALLY APPROVE THE ENTIRE MERCURY MINIMIZATION PLAN.

10 (2) THE DEPARTMENT MAY RECEIVE INPUT FROM A  
11 REPRESENTATIVE OF A VEHICLE RECYCLER, SCRAP ~~RECYCLING~~ PROCESSING  
12 FACILITY, OR ANY OTHER STAKEHOLDER AS THE DEPARTMENT DETERMINES  
13 NECESSARY.

14 (3) ~~IF THE ENTIRE MERCURY MINIMIZATION PLAN IS APPROVED,~~  
15 ~~THE~~ THE VEHICLE MANUFACTURER SHALL BEGIN IMPLEMENTATION OF THE  
16 MERCURY MINIMIZATION PLAN WITHIN 30 DAYS AFTER APPROVAL, OR AS  
17 ~~OTHERWISE DETERMINED~~ SUBMITTAL, UNLESS OTHERWISE DIRECTED BY THE  
18 DEPARTMENT.

19 (4) (I) IF THE ENTIRE MERCURY MINIMIZATION PLAN IS  
20 DISAPPROVED, THE DEPARTMENT SHALL INFORM THE VEHICLE  
21 MANUFACTURER OF THE REASONS FOR THE DISAPPROVAL.

22 (II) THE MANUFACTURER HAS 30 DAYS AFTER RECEIVING  
23 NOTICE OF THE DISAPPROVED PLAN TO SUBMIT A NEW MERCURY MINIMIZATION  
24 PLAN.

25 (5) (I) THE DEPARTMENT MAY ~~APPROVE~~ DISAPPROVE THOSE  
26 PARTS OF A MERCURY MINIMIZATION PLAN THAT DO NOT MEET THE  
27 REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION ~~AND DISAPPROVE ANY~~  
28 ~~PARTS THAT DO NOT COMPLY WITH THE REQUIREMENTS.~~

29 (II) A MANUFACTURER SHALL:

30 1. IMPLEMENT THE APPROVED PARTS OF A PLAN  
31 NOT DISAPPROVED WITHIN 30 DAYS AFTER ~~APPROVAL~~ SUBMITTAL OR AS  
32 OTHERWISE DETERMINED DIRECTED BY THE DEPARTMENT; AND



1                   2.    SUBMIT A REVISED MERCURY MINIMIZATION  
2 PLAN FOR THE DISAPPROVED PARTS WITHIN 30 DAYS AFTER RECEIVING  
3 NOTIFICATION OF THE DISAPPROVAL FROM THE DEPARTMENT.

4                   (III) THE DEPARTMENT ~~SHALL~~ MAY REVIEW AND APPROVE,  
5 CONDITIONALLY APPROVE, OR DISAPPROVE A REVISED MERCURY  
6 MINIMIZATION PLAN WITHIN 30 DAYS AFTER RECEIVING THE PLAN.

7                   ~~(6) (I) ON OR AFTER 90 DAYS FROM THE DATE THE~~  
8 ~~DEPARTMENT RECEIVES A MERCURY MINIMIZATION PLAN, IF THE~~  
9 ~~DEPARTMENT HAS NEITHER APPROVED NOR DISAPPROVED THE MERCURY~~  
10 ~~MINIMIZATION PLAN IN ACCORDANCE WITH THIS SUBSECTION, THE MERCURY~~  
11 ~~MINIMIZATION PLAN SHALL BE CONSIDERED CONDITIONALLY APPROVED.~~

12                   ~~(II) A VEHICLE MANUFACTURER SHALL IMPLEMENT A~~  
13 ~~CONDITIONALLY EFFECTIVE MERCURY MINIMIZATION PLAN WITHIN 30 DAYS~~  
14 ~~AFTER RECEIVING APPROVAL OR AS OTHERWISE DETERMINED BY THE~~  
15 ~~DEPARTMENT.~~

16                   (E) THE DEPARTMENT MAY COMPLETE, ON BEHALF OF A VEHICLE  
17 MANUFACTURER, ANY PORTION OF A MERCURY MINIMIZATION PLAN THAT HAS  
18 NOT BEEN APPROVED BY JANUARY 1, 2010.

19                   (F) THE DEPARTMENT MAY REVIEW A MERCURY MINIMIZATION PLAN  
20 APPROVED SUBMITTED IN ACCORDANCE WITH THIS SECTION AND RECOMMEND  
21 MODIFICATIONS IT CONSIDERS NECESSARY AT ANY TIME IF THE DEPARTMENT  
22 DETERMINES THAT THE APPROVED MERCURY MINIMIZATION PLAN IS  
23 DEFICIENT OR NOT MEETING THE GOALS OF THIS ACT.

24                   (G) THE DEPARTMENT MAY ADOPT REGULATIONS TO ADMINISTER THE  
25 PROVISIONS OF THIS SECTION.

26 **6-905.5.**

27                   (A) THIS SECTION APPLIES TO ANY PERSON THAT HAS ANY PART OF  
28 THE IMPLEMENTATION OF A MERCURY MINIMIZATION PLAN IN ACCORDANCE  
29 WITH § 6-905.4 OF THIS SUBTITLE.

30                   (B) (1) UNLESS A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY  
31 IS INACCESSIBLE DUE TO SIGNIFICANT DAMAGE TO THE VEHICLE IN THE AREA  
32 SURROUNDING THE LOCATION OF THE MERCURY SWITCH, ~~WITHIN 30 DAYS~~  
33 ~~AFTER THE APPROVAL OR CONDITIONAL APPROVAL OF A MERCURY~~  
34 ~~MINIMIZATION PLAN,~~ ON AND AFTER DECEMBER 1, 2009, A VEHICLE RECYCLER  
35 THAT SELLS, GIVES, OR OTHERWISE CONVEYS OWNERSHIP OF AN END-OF-LIFE

1 VEHICLE TO A SCRAP ~~RECYCLING~~ PROCESSING FACILITY FOR ~~RECYCLING~~  
2 PROCESSING SHALL REMOVE ALL MERCURY SWITCHES OR MERCURY SWITCH  
3 ASSEMBLIES IDENTIFIED IN THE APPROVED MERCURY MINIMIZATION ~~PLAN~~  
4 FROM PLAN;

5 (I) FROM THE END-OF-LIFE VEHICLE BEFORE DELIVERY  
6 TO A SCRAP ~~RECYCLING~~ PROCESSING FACILITY;

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

10 (III) ON OR BEFORE DECEMBER 31, 2010, FOR RECYCLING,  
11 FROM THE VEHICLE RECYCLER'S INVENTORY IN EXISTENCE AS OF SEPTEMBER  
12 30, 2009.

13 ~~(2) THE CAPTURE RATE GOAL FOR A MERCURY SWITCH OR~~  
14 ~~MERCURY SWITCH ASSEMBLY SHALL BE AT LEAST 90%.~~

15 ~~(3) (2)~~ IF THE MOTOR VEHICLE IS DAMAGED, THE DAMAGE  
16 SHALL BE NOTED ON THE NORMAL BUSINESS RECORDS OF THE VEHICLE  
17 RECYCLER THAT DELIVERED THE END-OF-LIFE VEHICLE TO THE SCRAP  
18 ~~RECYCLING~~ PROCESSING FACILITY.

19 ~~(4) (3)~~ IF THE MERCURY SWITCH ASSEMBLY IS CORRODED,  
20 DAMAGED, OR MOLDED IN A WAY AS TO MAKE REMOVAL OF THE MERCURY  
21 PELLET FROM THE MERCURY SWITCH ASSEMBLY IMPRACTICAL OR POSE A  
22 DANGER OF DAMAGE TO THE PELLET, THE ENTIRE MERCURY SWITCH ASSEMBLY  
23 SHALL BE REMOVED.

24 (C) (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A  
25 SCRAP ~~RECYCLING~~ PROCESSING FACILITY MAY AGREE TO ACCEPT AN  
26 END-OF-LIFE VEHICLE CONTAINING MERCURY SWITCHES THAT HAS NOT BEEN  
27 INTENTIONALLY FLATTENED, CRUSHED, OR BALED.

28 (2) A SCRAP ~~RECYCLING~~ PROCESSING FACILITY SHALL BE  
29 RESPONSIBLE FOR REMOVING THE MERCURY SWITCHES OR MERCURY SWITCH  
30 ASSEMBLIES IDENTIFIED IN THE MERCURY MINIMIZATION PLAN APPROVED IN  
31 ACCORDANCE WITH § 6-905.4 OF THIS SUBTITLE BEFORE THE END-OF-LIFE  
32 VEHICLE IS INTENTIONALLY FLATTENED, CRUSHED, BALED, OR SHREDDED.

33 (D) (1) A VEHICLE RECYCLER OR SCRAP ~~RECYCLING~~ PROCESSING  
34 FACILITY THAT REMOVES A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY  
35 IN ACCORDANCE WITH THIS SECTION SHALL MAINTAIN ELECTRONIC RECORDS

1 DOCUMENTING THE NUMBER OF MERCURY SWITCHES AND MERCURY SWITCH  
2 ASSEMBLIES COLLECTED, THE NUMBER OF END-OF-LIFE VEHICLES  
3 CONTAINING MERCURY SWITCHES, AND THE NUMBER OF END-OF-LIFE  
4 VEHICLES PROCESSED FOR RECYCLING.

5 (2) THE RECORDS REQUIRED BY PARAGRAPH (1) OF THIS  
6 SUBSECTION SHALL BE KEPT FOR 3 YEARS AND MADE AVAILABLE FOR REVIEW  
7 BY THE DEPARTMENT ON THE REQUEST OF THE DEPARTMENT.

8 (E) A PERSON MAY NOT FALSELY REPRESENT THAT MERCURY  
9 SWITCHES OR MERCURY SWITCH ASSEMBLIES HAVE BEEN REMOVED FROM AN  
10 END-OF-LIFE VEHICLE BEING SOLD, GIVEN, OR OTHERWISE CONVEYED FOR  
11 RECYCLING IF THAT PERSON HAS NOT REMOVED THE MERCURY SWITCHES OR  
12 MERCURY SWITCH ASSEMBLIES, OR ARRANGED WITH ANOTHER PERSON TO  
13 REMOVE THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES.

14 (F) ON REMOVAL, MERCURY SWITCHES AND MERCURY SWITCH  
15 ASSEMBLIES SHALL BE COLLECTED, STORED, TRANSPORTED, RECYCLED, AND  
16 OTHERWISE HANDLED AS REQUIRED BY THE MERCURY MINIMIZATION PLAN  
17 APPROVED IN ACCORDANCE WITH § 6-905.4 OF THIS SUBTITLE AND WITH ANY  
18 PROVISIONS OR REGULATIONS CONCERNING WASTE IN ACCORDANCE WITH  
19 TITLE 9 OF THIS ARTICLE.

20 (G) (1) ~~ON OR AFTER 1 YEAR OF THE IMPLEMENTATION OF A~~  
21 ~~MERCURY MINIMIZATION PLAN APPROVED IN ACCORDANCE WITH § 6-905.4 OF~~  
22 ~~THIS SUBTITLE~~ BEFORE JANUARY 31 OF EACH YEAR, A MANUFACTURER SHALL  
23 REPORT TO THE DEPARTMENT CONCERNING THE IMPLEMENTATION OF THE  
24 MERCURY MINIMIZATION PLAN.

25 (2) THE REPORT SHALL INCLUDE:

26 (I) A DETAILED DESCRIPTION AND DOCUMENTATION OF  
27 THE CAPTURE RATE ACHIEVED, IN ACCORDANCE WITH SUBSECTION (B) OF THIS  
28 SECTION;

29 (II) A DESCRIPTION OF ADDITIONAL OR ALTERNATIVE  
30 ACTIONS THAT MAY BE IMPLEMENTED TO IMPROVE THE MERCURY  
31 MINIMIZATION PLAN AND ITS IMPLEMENTATION IN THE EVENT THAT A  
32 MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY CAPTURE RATE OF AT  
33 LEAST 90% FOR THE PREVIOUS CALENDAR YEAR IS NOT ACHIEVED;

34 (III) THE NUMBERS OF MERCURY SWITCHES AND MERCURY  
35 SWITCH ASSEMBLIES COLLECTED, END-OF-LIFE VEHICLES CONTAINING

1 MERCURY SWITCHES, AND ~~END-OF-LIFE VEHICLES~~ MERCURY SWITCHES AND  
2 MERCURY SWITCH ASSEMBLIES PROCESSED FOR RECYCLING;

3 (IV) A DESCRIPTION OF HOW THE MERCURY SWITCHES AND  
4 MERCURY SWITCH ASSEMBLIES WERE MANAGED; AND

5 (V) A DESCRIPTION OF THE AMOUNTS PAID TO COVER THE  
6 COSTS OF IMPLEMENTING THE MERCURY MINIMIZATION PLAN.

7 (H) THE DEPARTMENT MAY DISCONTINUE THE REQUIREMENT FOR THE  
8 ANNUAL REPORT IF IT DETERMINES THAT MERCURY SWITCHES IN END-OF-LIFE  
9 VEHICLES WILL, BY THE END OF DECEMBER 2020, NO LONGER POSE A  
10 SIGNIFICANT THREAT TO THE ENVIRONMENT OR TO PUBLIC HEALTH.

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

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

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

21 (II) THE CAPTURE RATE OF SWITCH RECOVERY ACHIEVED;

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

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

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

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

1       ~~(I)~~ (K) THE DEPARTMENT ~~SHALL~~ MAY ADOPT REGULATIONS TO  
2 ADMINISTER THE PROVISIONS OF THIS SECTION.

3 **6-905.6.**

4       ~~(A) IF A PERSON VIOLATES ANY PROVISION OR ANY REGULATION~~  
5 ~~ADOPTED IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE, THE~~  
6 ~~DEPARTMENT:~~

7           ~~(1) MAY ISSUE AN ORDER THAT:~~

8                   ~~(I) SPECIFIES THE PROVISION THAT ALLEGEDLY HAS BEEN~~  
9 ~~VIOLATED;~~

10                   ~~(II) STATES THE ACTIONS NECESSARY TO CORRECT THE~~  
11 ~~VIOLATION AND THE TIME ALLOWED FOR CORRECTION; AND~~

12                   ~~(III) STATES THE PROCEDURE FOR REQUESTING A HEARING~~  
13 ~~TO RESPOND TO THE VIOLATION ALLEGED IN THE ORDER, IN ACCORDANCE~~  
14 ~~WITH SUBSECTION (B) OF THIS SECTION;~~

15           ~~(2) MAY IMPOSE AN ADMINISTRATIVE PENALTY NOT TO EXCEED:~~

16                   ~~(I) \$7,500 FOR A FIRST OFFENSE;~~

17                   ~~(II) \$10,000 FOR A SECOND OFFENSE; AND~~

18                   ~~(III) \$25,000 FOR A THIRD AND EVERY SUBSEQUENT~~  
19 ~~OFFENSE;~~

20           ~~(3) MAY NOT LEVY AN ASSESSMENT IN ACCORDANCE WITH THIS~~  
21 ~~SECTION UNTIL AFTER THE VIOLATOR HAS BEEN NOTIFIED OF THE VIOLATION~~  
22 ~~BY CERTIFIED MAIL OR PERSONAL SERVICE;~~

23           ~~(4) MAY BRING AN ACTION FOR AN INJUNCTION AGAINST ANY~~  
24 ~~PERSON THAT VIOLATES ANY PROVISION OR A REGULATION OR ORDER ISSUED~~  
25 ~~BY THE DEPARTMENT IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE; AND~~

26           ~~(5) MAY PETITION THE ATTORNEY GENERAL TO BRING A~~  
27 ~~CRIMINAL ACTION IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.~~

28       ~~(B) (1) THE DEPARTMENT SHALL PROVIDE NOTICE OF A VIOLATION~~  
29 ~~BY CERTIFIED MAIL OR PERSONAL SERVICE.~~

1           ~~(2) A PERSON THAT RECEIVES NOTICE SHALL HAVE 20 DAYS~~  
2 ~~AFTER RECEIVING THE NOTICE TO REQUEST A HEARING.~~

3           ~~(3) AFTER THE HEARING, IF THE DEPARTMENT FINDS THAT A~~  
4 ~~VIOLATION HAS OCCURRED, THE ORDER SHALL BECOME A FINAL ORDER.~~

5           ~~(4) AFTER THE 20-DAY REQUEST PERIOD, IF NO HEARING IS~~  
6 ~~REQUESTED, THE ORDER SHALL BECOME A FINAL ORDER.~~

7           ~~(C) IF THE DEPARTMENT PURSUES ANY OF THE REMEDIES SPECIFIED~~  
8 ~~UNDER THIS SECTION, THE DEPARTMENT IS NOT PRECLUDED FROM SEEKING~~  
9 ~~ANY OTHER REMEDY AFFORDED IT UNDER THIS SECTION.~~

10           ~~(D) ANY PENALTY IMPOSED UNDER THIS SECTION MAY BE COLLECTED,~~  
11 ~~WITH COSTS, IN A SUMMARY PROCEEDING IN ACCORDANCE WITH THE~~  
12 ~~PROCEDURES OF THE COURT.~~

13           ~~(E) IN ANY ACTION FOR AN INJUNCTION, THE COURT MAY GRANT~~  
14 ~~TEMPORARY OR INTERLOCUTORY RELIEF, INCLUDING:~~

15           ~~(1) A TEMPORARY OR PERMANENT INJUNCTION; OR~~

16           ~~(2) AN ASSESSMENT OF THE VIOLATOR FOR THE REASONABLE~~  
17 ~~COSTS OF:~~

18           ~~(I) ANY INSPECTION THAT LED TO THE ESTABLISHMENT OF~~  
19 ~~THE VIOLATION; AND~~

20           ~~(H) PREPARING AND LITIGATING THE ACTION BROUGHT~~  
21 ~~UNDER SUBSECTION (A)(4) OF THIS SECTION.~~

22           ~~(F) (1) A PERSON WHO WILLFULLY OR NEGLIGENTLY VIOLATES THE~~  
23 ~~PROVISIONS OF § 6-905.5 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND~~  
24 ~~ON CONVICTION OF A FIRST OFFENSE IS SUBJECT TO A FINE OF AT LEAST \$2,500~~  
25 ~~BUT NOT EXCEEDING \$25,000.~~

26           ~~(2) A SECOND OFFENSE UNDER THIS SUBSECTION SHALL~~  
27 ~~SUBJECT THE VIOLATOR TO A FINE OF AT LEAST \$5,000 BUT NOT EXCEEDING~~  
28 ~~\$50,000.~~

29           ~~(3) A PERSON THAT KNOWINGLY MAKES A FALSE STATEMENT,~~  
30 ~~REPRESENTATION, OR CERTIFICATION IN ANY APPLICATION, RECORD, OR~~  
31 ~~OTHER DOCUMENT FILED OR REQUIRED TO BE MAINTAINED UNDER THIS~~  
32 ~~SUBTITLE OR THAT FALSIFIES, TAMPERS WITH, OR KNOWINGLY RENDERS~~

~~1 INACCURATE ANY MONITORING DEVICE OR METHOD REQUIRED TO BE  
2 MAINTAINED IN ACCORDANCE WITH THIS SUBTITLE IS GUILTY OF A  
3 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING  
4 \$10,000.~~

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

9 (1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000;

10 (2) FOR A SECOND OFFENSE, A FINE NOT EXCEEDING \$2,500; AND

11 (3) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE NOT  
12 EXCEEDING \$5,000.

13 (B) A PERSON THAT VIOLATES ANY PROVISION OF § 6-905.4 OR §  
14 6-905.5 OF THIS SUBTITLE, OR ANY REGULATION ADOPTED TO IMPLEMENT THE  
15 PROVISIONS OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, IS LIABLE FOR A  
16 CIVIL PENALTY TO BE COLLECTED IN A CIVIL ACTION IN THE CIRCUIT COURT  
17 FOR ANY COUNTY IN THE STATE NOT EXCEEDING:

18 (1) \$1,000 FOR A FIRST OFFENSE;

19 (2) \$2,500 FOR A SECOND OFFENSE; OR

20 (3) \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.

21 (C) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR  
22 IN EQUITY, AFTER AN OPPORTUNITY FOR A HEARING, THE DEPARTMENT MAY  
23 IMPOSE A FINE FOR EACH VIOLATION OF § 6-905.4 OR § 6-905.5 OF THIS  
24 SUBTITLE, OR OF ANY REGULATION ADOPTED UNDER § 6-905.4 OR § 6-905.5 OF  
25 THIS SUBTITLE, NOT EXCEEDING:

26 (I) \$1,000 FOR A FIRST OFFENSE;

27 (II) \$2,500 FOR A SECOND OFFENSE; OR

28 (III) \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.

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

1           **(I) THE WILLFULNESS OF THE VIOLATION;**

2           **(II) THE EXTENT TO WHICH THE VIOLATION WAS KNOWN,**  
3 **BUT UNCORRECTED, BY THE VIOLATOR;**

4           **(III) THE EXTENT TO WHICH THE VIOLATION RESULTED IN**  
5 **ACTUAL HARM TO HUMAN HEALTH OR THE ENVIRONMENT;**

6           **(IV) THE NATURE AND DEGREE OF INJURY TO, OR**  
7 **INTERFERENCE WITH, GENERAL WELFARE AND HEALTH; AND**

8           **(V) THE EXTENT TO WHICH THE CURRENT VIOLATION IS**  
9 **PART OF A PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION BY THE**  
10 **VIOLATOR.**

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

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

15 9-1707.

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

17                   (2) The Fund shall consist of:

18                           (i) The newsprint recycling incentive fee;

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

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

23                           (iv) **THE MERCURY ~~LIGHT~~ SWITCH, ~~ANTILOCK BRAKING~~**  
24 **SWITCH, OR MERCURY SWITCH ASSEMBLY REMOVAL FEES COLLECTED UNDER §**  
25 **6-905.4(C)(6)(III)3 OF THIS ARTICLE;**

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

28                           [(v)] (vi) Money appropriated in the State budget to the Fund;  
29 and



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

3 (3) The Secretary shall administer the Fund.

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

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

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

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

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

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

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

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

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

23 ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

24 ~~(a) On or before November 1, 2009, each vehicle manufacturer that sells~~  
25 ~~motor vehicles in the State shall report to the Department of the Environment on how~~  
26 ~~many mercury switches or mercury switch assemblies were captured in Maryland by~~  
27 ~~the vehicle manufacturer under the National Vehicle Mercury Switch Removal~~  
28 ~~Program during the 12-month period ending September 30, 2009.~~

29 ~~(b) On or before December 1, 2009, the Department of the Environment shall~~  
30 ~~determine whether the National Vehicle Mercury Switch Removal Program has~~  
31 ~~captured at least 103,600 mercury switches or mercury switch assemblies in Maryland~~  
32 ~~during the 12-month period ending September 30, 2009.~~

33 ~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

1       ~~(a) Section 1 of this Act shall take effect January 1, 2010, contingent on a~~  
 2 ~~determination under Section 2 of this Act by the Department of the Environment that~~  
 3 ~~fewer than 103,600 mercury switches or mercury switch assemblies were captured in~~  
 4 ~~Maryland under the National Vehicle Mercury Switch Removal Program during the~~  
 5 ~~12 month period ending September 30, 2009.~~

6       ~~(b) If the Department makes a determination under subsection (a) of this~~  
 7 ~~section:~~

8             ~~(1) That fewer than 103,600 mercury switches or mercury switch~~  
 9 ~~assemblies were captured in Maryland under the National Vehicle Mercury Switch~~  
 10 ~~Removal Program during the 12 month period ending September 30, 2009, Section 1~~  
 11 ~~of this Act shall take effect on January 1, 2010; or~~

12            ~~(2) That at least 103,600 mercury switches or mercury switch~~  
 13 ~~assemblies were captured in Maryland under the National Vehicle Mercury Switch~~  
 14 ~~Removal Program during the 12 month period ending September 30, 2009, 30 days~~  
 15 ~~after the Department makes the determination, with no further action required by the~~  
 16 ~~General Assembly, this Act shall be abrogated and of no further force and effect.~~

17       ~~(c) Within 5 days after making a determination under subsection (a) of this~~  
 18 ~~section, the Department shall forward a copy of the determination to the Department~~  
 19 ~~of Legislative Services, 90 State Circle, Annapolis, Maryland.~~

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

22       ~~SECTION 4. 3. AND BE IT FURTHER ENACTED, That, subject to Section 3 of~~  
 23 ~~this Act, this Act shall take effect July 1, 2009. *It shall remain effective for a period of*~~  
 24 ~~*8 years and 6 months and, at the end of December 31, 2017, with no further action*~~  
 25 ~~*required by the General Assembly, this Act shall be abrogated and of no further force*~~  
 26 ~~*and effect.*~~

Approved:

---

Governor.

---

Speaker of the House of Delegates.

---

President of the Senate.