

HOUSE BILL 1263

M3

9lr2785

HB 835/08 – ENV

By: **Delegates Hucker, O'Donnell, ~~and Shewell~~ Shewell, and Manno**

Introduced and read first time: February 13, 2009

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2009

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 inventory within a certain period of time; authorizing the Department to
14 impose certain penalties for violators of a mercury minimization plan;
15 authorizing a scrap recycling facility to accept end-of-life vehicles that contain
16 mercury switches under certain circumstances; providing that certain fees,
17 finest, and penalties be deposited in the State Recycling Trust Fund; defining
18 certain terms; authorizing the Department to adopt rules and regulations to
19 administer the plan; requiring an annual report containing certain information
20 to be submitted to the Department; requiring certain vehicle manufacturers to
21 report certain information to the Department on or before a certain date;
22 ~~requiring the Department to make a certain determination; making this Act~~
23 ~~subject to a certain contingency; requiring the Department to forward a copy of~~
24 ~~a certain determination to the Department of Legislative Services; providing for~~
25 ~~the termination of this Act under certain circumstances~~; requiring the
26 Department to submit a certain report to the General Assembly each year on or

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.



1 before a certain date; establishing a certain capture rate goal for a certain year;
2 defining certain terms; and generally relating to mercury switch removal from
3 motor vehicles.

4 BY repealing and reenacting, with amendments,
5 Article – Environment
6 Section ~~6–904 and 6–905~~, 6–905, and 19–1707(f)
7 Annotated Code of Maryland
8 (2007 Replacement Volume and 2008 Supplement)

9 BY adding to
10 Article – Environment
11 Section 6–905.4 through 6–905.6
12 Annotated Code of Maryland
13 (2007 Replacement Volume and 2008 Supplement)

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

16 **Article – Environment**

17 6–904.

18 The General Assembly finds that:

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

21 (2) Consumption of mercury-contaminated fish poses a significant
22 health threat;

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

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

27 **[(4)] (5)** Both industry and government are working to reduce the
28 content of mercury in products and to control the release of mercury into the
29 environment;

30 **[(5)] (6)** Accidental mercury spills, breakages, and releases have
31 occurred at schools in the United States, exposing students, teachers, and
32 administrators to mercury emissions; [and]

1 [(6)] (7) Removal of mercury and mercury containing products from
2 the waste stream prior to combustion or disposal is an effective way to reduce mercury
3 pollution; AND

4 (8) **THE VOLUNTARY NATIONAL VEHICLE MERCURY SWITCH**
5 ~~REMOVAL~~ **RECOVERY PROGRAM HAS NOT REMOVED A SUFFICIENT**
6 **PERCENTAGE OF MERCURY-CONTAINING SWITCHES IN THE STATE TO PROTECT**
7 **THE ENVIRONMENT.**

8 6-905.

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

10 (b) **“CAPTURE RATE” MEANS THE ANNUAL REMOVAL, COLLECTION,**
11 **AND RECOVERY OF MERCURY SWITCHES AS A PERCENTAGE OF TOTAL NUMBER**
12 **OF MERCURY SWITCHES AVAILABLE FROM END-OF-LIFE VEHICLES FOR THAT**
13 **YEAR.**

14 (c) **“END-OF-LIFE VEHICLE” MEANS A MOTOR VEHICLE THAT IS SOLD,**
15 **GIVEN, OR OTHERWISE CONVEYED TO A VEHICLE RECYCLER OR SCRAP**
16 **RECYCLING FACILITY FOR THE PURPOSE OF RESALE OF ITS PARTS OR**
17 **RECYCLING.**

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

19 (1) Produces a product;

20 (2) For a multicomponent product, produces or assembles the final
21 product; or

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

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

27 (1) A fever thermometer containing mercury; or

28 (2) A thermostat containing mercury.

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

32 (1) Dyes or pigments;

(2) Electric switches; and

(3) Fluorescent lamps.

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

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

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

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

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

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

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

(L) **“SCRAP RECYCLING PROCESSING FACILITY” MEANS A ~~FIXED LOCATION WHERE MACHINERY AND EQUIPMENT ARE USED FOR PROCESSING AND MANUFACTURING SCRAP METAL INTO PREPARED GRADES AND THE PRINCIPAL PRODUCT IS SCRAP IRON, STEEL, OR NONFERROUS METALLIC SCRAP FACILITY:~~**

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

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

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

(N) **“VEHICLE MANUFACTURER” MEANS A PERSON THAT:**

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

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

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

(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.

6-905.4.

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

(B) (1) ON OR BEFORE SEPTEMBER 30, 2009, ~~A VEHICLE MANUFACTURER~~ MANUFACTURERS, INDIVIDUALLY OR AS A GROUP, SHALL DEVELOP A MERCURY MINIMIZATION PLAN AND SUBMIT IT TO THE DEPARTMENT FOR REVIEW AND APPROVAL.

(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.

(C) THE PLAN SHALL CONTAIN:

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

(I) THE LOCATION OF THE SWITCH;

(II) THE LOCATION OF A MERCURY SWITCH ASSEMBLY; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(VIII) MAINTENANCE OF ALL APPROPRIATE RECORD KEEPING SYSTEMS.

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

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

(3) ~~IF THE ENTIRE MERCURY MINIMIZATION PLAN IS APPROVED, THE~~ THE VEHICLE MANUFACTURER SHALL BEGIN IMPLEMENTATION OF THE MERCURY MINIMIZATION PLAN WITHIN 30 DAYS AFTER ~~APPROVAL, OR AS~~

~~OTHERWISE DETERMINED~~ SUBMITTAL, UNLESS OTHERWISE DIRECTED BY THE DEPARTMENT.

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

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

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

(II) A MANUFACTURER SHALL:

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

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

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

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

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

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

1 (F) THE DEPARTMENT MAY REVIEW A MERCURY MINIMIZATION PLAN
2 ~~APPROVED~~ SUBMITTED IN ACCORDANCE WITH THIS SECTION AND RECOMMEND
3 MODIFICATIONS IT CONSIDERS NECESSARY AT ANY TIME IF THE DEPARTMENT
4 DETERMINES THAT THE APPROVED MERCURY MINIMIZATION PLAN IS
5 DEFICIENT OR NOT MEETING THE GOALS OF THIS ACT.

6 (G) THE DEPARTMENT MAY ADOPT REGULATIONS TO ADMINISTER THE
7 PROVISIONS OF THIS SECTION.

8 **6-905.5.**

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

12 (B) (1) UNLESS A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY
13 IS INACCESSIBLE DUE TO SIGNIFICANT DAMAGE TO THE VEHICLE IN THE AREA
14 SURROUNDING THE LOCATION OF THE MERCURY SWITCH, ~~WITHIN 30 DAYS~~
15 ~~AFTER THE APPROVAL OR CONDITIONAL APPROVAL OF A MERCURY~~
16 ~~MINIMIZATION PLAN,~~ ON AND AFTER DECEMBER 1, 2009, A VEHICLE RECYCLER
17 THAT SELLS, GIVES, OR OTHERWISE CONVEYS OWNERSHIP OF AN END-OF-LIFE
18 VEHICLE TO A SCRAP RECYCLING FACILITY FOR RECYCLING SHALL REMOVE
19 ALL MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES IDENTIFIED IN THE
20 APPROVED MERCURY MINIMIZATION ~~PLAN FROM~~ PLAN:

21 (I) FROM THE END-OF-LIFE VEHICLE BEFORE DELIVERY
22 TO A SCRAP RECYCLING FACILITY;

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

26 (III) ON OR BEFORE DECEMBER 31, 2010, FOR RECYCLING,
27 FROM THE VEHICLE RECYCLER'S INVENTORY IN EXISTENCE AS OF SEPTEMBER
28 30, 2009.

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

31 ~~(3)~~ (2) IF THE MOTOR VEHICLE IS DAMAGED, THE DAMAGE
32 SHALL BE NOTED ON THE NORMAL BUSINESS RECORDS OF THE VEHICLE
33 RECYCLER THAT DELIVERED THE END-OF-LIFE VEHICLE TO THE SCRAP
34 RECYCLING FACILITY.

1 ~~(4)~~ (3) IF THE MERCURY SWITCH ASSEMBLY IS CORRODED,
2 DAMAGED, OR MOLDED IN A WAY AS TO MAKE REMOVAL OF THE MERCURY
3 PELLET FROM THE MERCURY SWITCH ASSEMBLY IMPRACTICAL OR POSE A
4 DANGER OF DAMAGE TO THE PELLET, THE ENTIRE MERCURY SWITCH ASSEMBLY
5 SHALL BE REMOVED.

6 (C) (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A
7 SCRAP RECYCLING FACILITY MAY AGREE TO ACCEPT AN END-OF-LIFE VEHICLE
8 CONTAINING MERCURY SWITCHES THAT HAS NOT BEEN INTENTIONALLY
9 FLATTENED, CRUSHED, OR BALED.

10 (2) A SCRAP RECYCLING FACILITY SHALL BE RESPONSIBLE FOR
11 REMOVING THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES
12 IDENTIFIED IN THE MERCURY MINIMIZATION PLAN APPROVED IN ACCORDANCE
13 WITH § 6-905.4 OF THIS SUBTITLE BEFORE THE END-OF-LIFE VEHICLE IS
14 INTENTIONALLY FLATTENED, CRUSHED, BALED, OR SHREDDED.

15 (D) (1) A VEHICLE RECYCLER OR SCRAP RECYCLING FACILITY THAT
16 REMOVES A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY IN
17 ACCORDANCE WITH THIS SECTION SHALL MAINTAIN ELECTRONIC RECORDS
18 DOCUMENTING THE NUMBER OF MERCURY SWITCHES AND MERCURY SWITCH
19 ASSEMBLIES COLLECTED, THE NUMBER OF END-OF-LIFE VEHICLES
20 CONTAINING MERCURY SWITCHES, AND THE NUMBER OF END-OF-LIFE
21 VEHICLES PROCESSED FOR RECYCLING.

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

25 (E) A PERSON MAY NOT FALSELY REPRESENT THAT MERCURY
26 SWITCHES OR MERCURY SWITCH ASSEMBLIES HAVE BEEN REMOVED FROM AN
27 END-OF-LIFE VEHICLE BEING SOLD, GIVEN, OR OTHERWISE CONVEYED FOR
28 RECYCLING IF THAT PERSON HAS NOT REMOVED THE MERCURY SWITCHES OR
29 MERCURY SWITCH ASSEMBLIES, OR ARRANGED WITH ANOTHER PERSON TO
30 REMOVE THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES.

31 (F) ON REMOVAL, MERCURY SWITCHES AND MERCURY SWITCH
32 ASSEMBLIES SHALL BE COLLECTED, STORED, TRANSPORTED, RECYCLED, AND
33 OTHERWISE HANDLED AS REQUIRED BY THE MERCURY MINIMIZATION PLAN
34 APPROVED IN ACCORDANCE WITH § 6-905.4 OF THIS SUBTITLE AND WITH ANY
35 PROVISIONS OR REGULATIONS CONCERNING WASTE IN ACCORDANCE WITH
36 TITLE 9 OF THIS ARTICLE.

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

6 (2) THE REPORT SHALL INCLUDE:

7 (I) A DETAILED DESCRIPTION AND DOCUMENTATION OF
8 THE CAPTURE RATE ACHIEVED, IN ACCORDANCE WITH SUBSECTION (B) OF THIS
9 SECTION;

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

15 (III) THE NUMBERS OF MERCURY SWITCHES AND MERCURY
16 SWITCH ASSEMBLIES COLLECTED, END-OF-LIFE VEHICLES CONTAINING
17 MERCURY SWITCHES, AND ~~END-OF-LIFE VEHICLES~~ MERCURY SWITCHES AND
18 MERCURY SWITCH ASSEMBLIES PROCESSED FOR RECYCLING;

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

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

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

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

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

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

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

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

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

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

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

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

17 **6-905.6.**

18 ~~(A) IF A PERSON VIOLATES ANY PROVISION OR ANY REGULATION~~
19 ~~ADOPTED IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE, THE~~
20 ~~DEPARTMENT;~~

21 ~~(1) MAY ISSUE AN ORDER THAT;~~

22 ~~(I) SPECIFIES THE PROVISION THAT ALLEGEDLY HAS BEEN~~
23 ~~VIOLATED;~~

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

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

29 ~~(2) MAY IMPOSE AN ADMINISTRATIVE PENALTY NOT TO EXCEED;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(2) AN ASSESSMENT OF THE VIOLATOR FOR THE REASONABLE
COSTS OF;~~

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

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

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

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

~~(3) A PERSON THAT KNOWINGLY MAKES A FALSE STATEMENT, REPRESENTATION, OR CERTIFICATION IN ANY APPLICATION, RECORD, OR OTHER DOCUMENT FILED OR REQUIRED TO BE MAINTAINED UNDER THIS SUBTITLE OR THAT FALSIFIES, TAMPERS WITH, OR KNOWINGLY RENDERS INACCURATE ANY MONITORING DEVICE OR METHOD REQUIRED TO BE MAINTAINED IN ACCORDANCE WITH THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000.~~

(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

1 **(3) \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.**

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

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

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

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

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

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

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

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

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

19 **(V) THE EXTENT TO WHICH THE CURRENT VIOLATION IS**
20 **PART OF A PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION BY THE**
21 **VIOLATOR.**

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

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

26 **9-1707.**

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

28 **(2) The Fund shall consist of:**

- 1 (i) The newsprint recycling incentive fee;
- 2 (ii) The telephone directory recycling incentive fee collected
3 under § 9–1709 of this subtitle;
- 4 (iii) The covered electronic device manufacturer registration fee
5 collected under § 9–1728 of this subtitle;
- 6 (iv) **THE MERCURY LIGHT SWITCH, ANTILOCK BRAKING**
7 **SWITCH, OR MERCURY SWITCH ASSEMBLY REMOVAL FEES COLLECTED UNDER §**
8 **6–905.4(C)(6)(III)3 OF THIS ARTICLE;**
- 9 (v) All fines and penalties collected under this subtitle **AND**
10 **UNDER §§ 6–905.4 AND 6–905.6 OF THIS ARTICLE;**
- 11 [(v)] (vi) Money appropriated in the State budget to the Fund;
12 and
- 13 [(vi)] (vii) Any other money from any other source accepted for
14 the benefit of the Fund.
- 15 (3) The Secretary shall administer the Fund.
- 16 (4) The Treasurer shall hold the Fund separately and the Comptroller
17 shall account for the Fund.
- 18 (5) At the end of each fiscal year, any unspent or unencumbered
19 balance in the Fund that exceeds \$2,000,000 shall revert to the General Fund of the
20 State in accordance with § 7–302 of the State Finance and Procurement Article.
- 21 (6) In accordance with the State budget, the Fund shall be used only:
- 22 (i) To provide grants to the counties to be used by the counties
23 to develop and implement local recycling plans;
- 24 (ii) To provide grants to counties that have addressed methods
25 for the separate collection and recycling of covered electronic devices in accordance
26 with § 9–1703(c)(1) of this subtitle;
- 27 (iii) To provide grants to municipalities to be used by the
28 municipalities to implement local covered electronic device recycling programs; and
- 29 (iv) To carry out the purposes of the Office of Recycling under
30 this subtitle **AND UNDER TITLE 6, SUBTITLE 9 OF THIS ARTICLE.**
- 31 (7) (i) The Treasurer shall invest the money in the Fund in the
32 same manner as other State money may be invested.

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

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

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

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

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

14 ~~(a) Section 1 of this Act shall take effect January 1, 2010, contingent on a~~
15 ~~determination under Section 2 of this Act by the Department of the Environment that~~
16 ~~fewer than 103,600 mercury switches or mercury switch assemblies were captured in~~
17 ~~Maryland under the National Vehicle Mercury Switch Removal Program during the~~
18 ~~12-month period ending September 30, 2009.~~

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

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

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

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

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

35 SECTION 4. ~~3.~~ AND BE IT FURTHER ENACTED, That, subject to Section 3 of
36 this Act, this Act shall take effect July 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.