

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1021 (Delegate Terrasa)
 Economic Matters

Products That Contain Mercury - Fluorescent Lamps - Prohibition

This bill prohibits a person (unless exempted) from selling or distributing as a new manufactured product (1) beginning January 1, 2024, a screw- or bayonet-base type “compact fluorescent lamp” in the State and (2) beginning January 1, 2025, a pin-base type compact fluorescent lamp or a “linear fluorescent lamp” in the State. Specified existing penalty provisions apply to enforce violations of the bill. However, a penalty may not be imposed unless the Maryland Department of the Environment (MDE) first issues a written notice of the violation.

Fiscal Summary

State Effect: General fund expenditures increase by \$88,900 in FY 2024 for staff; out-years reflect annualization and ongoing costs. Any impact on State agencies as consumers is anticipated to be minimal, as discussed below. The application of existing penalty provisions is not anticipated to materially affect State revenues or State incarceration expenditures.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	88,900	77,600	80,900	58,600	54,700
Net Effect	(\$88,900)	(\$77,600)	(\$80,900)	(\$58,600)	(\$54,700)

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

Local Effect: Any impact on local governments as consumers is anticipated to be minimal, as discussed below. The application of existing penalty provisions is not anticipated to materially affect local incarceration expenditures. Local revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Product Exemptions

The bill does not apply to the following products: (1) a lamp designed and marketed exclusively for image capture and projection; (2) a lamp that has a high proportion of ultraviolet light emission and meets additional listed specifications; (3) a lamp designed and marketed exclusively for use in a medical or veterinary diagnosis or treatment, in a medical device, or in the manufacturing or quality control of pharmaceutical products; (4) a lamp designed and marketed exclusively for spectroscopy and photometric applications; or (5) a lamp used by academic and research institutions for conducting research projects and experiments.

Enforcement and Penalty Provisions

The bill specifies that §§ 9-334 through 9-342 of the Environment Article (existing enforcement provisions that generally apply to water pollution control violations) apply to enforce violations of the bill's provisions. However, a penalty may not be imposed unless MDE first issues a written notice of violation.

Under §§ 9-334 through 9-342 of the Environment Article, in addition to being subject to an injunctive action, a violator is subject to a maximum penalty of \$10,000 to be collected in a civil action brought by MDE; each day a violation occurs is a separate violation. MDE may also impose a maximum administrative penalty of \$10,000 per violation and \$100,000 total; each day a violation occurs is a separate violation, and administrative penalties must be assessed with consideration given to specified factors. Criminal (misdemeanor) penalties may also be imposed, with a maximum fine of \$25,000 and/or imprisonment for up to one year for a first offense and a maximum fine of \$50,000 and/or imprisonment for up to two years for a subsequent offense. Each day on which a violation occurs is a separate violation. Additional criminal penalties apply for making false statements in required documents.

Current Law: Pursuant to Chapters 808 and 809 of 2017, a marketer is prohibited, beginning October 1, 2018, from knowingly selling or providing to a consumer (individually or as a product component) (1) an electric switch containing mercury; (2) an electric relay containing mercury; or (3) a gas valve switch containing mercury. There are exemptions for an electric switch, an electric relay, or a gas valve switch that is a component of a larger product that was in use on or before October 1, 2018, under certain circumstances. A person who violates this prohibition is liable for a civil penalty to be collected in a civil action in the circuit court for any county in the State of up to

(1) \$1,000 for a first offense; (2) \$2,500 for a second offense; and (3) \$5,000 for a third or subsequent offense. In addition to any other remedies available at law or in equity, after an opportunity for a hearing, MDE may impose a fine for each violation of up to (1) \$1,000 for a first offense; (2) \$2,500 for a second offense; and (3) \$5,000 for a third or subsequent offense. MDE must consider specified factors in assessing an administrative fine. Each day a violation continues is a separate offense.

There are also provisions related to mercury-added products (e.g., dyes or pigments, electric switches, fluorescent lamps), mercury switches in vehicles, thermostats, mercury fever thermometers, mercuric oxide batteries, the use of mercury in schools, and public outreach and education. Chapter 494 of 2004 established prohibitions and requirements relating to the sale and reclamation or destination of mercury-added products. In general, unless a mercury-added product is labeled, a manufacturer or wholesaler may not sell the product at retail in the State or to a retailer in the State. Unless properly labeled, a retailer may not knowingly sell a new mercury-added product in the State. Chapter 56 of 2006 prohibits a marketer from selling or providing a thermostat containing mercury to a consumer.

Generally, a person who violates any provisions of Subtitle 9 (Mercury) of the Environment Article is guilty of a misdemeanor and on conviction is subject to a fine of up to \$100 for each violation.

State/Local Fiscal Effect:

Maryland Department of the Environment Administrative Costs

General fund expenditures for MDE increase by \$56,525 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring one environmental compliance specialist to (1) conduct outreach to affected individuals and provide notice of the bill’s prohibitions and (2) conduct inspections, issue notices, and generally enforce the bill. It includes a salary, fringe benefits, one-time start-up costs, including the purchase of a vehicle and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$56,525
Vehicle Purchase	22,988
Operating Expenses	<u>9,397</u>
Total FY 2024 State Expenditures	\$88,910

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Once the bill’s product bans have gone into effect and affected individuals are aware of the bill’s prohibitions, it is

assumed that the environmental compliance specialist is able to transition from a full-time position to a part-time (50%) position. Accordingly, beginning in fiscal 2027, the estimates reflect that transition.

Impacts to State Agencies and Local Governments as Consumers

Overall, the bill's product ban is anticipated to have minimal impact on State agencies and local governments. MDE notes that there are costs associated with disposing of compact fluorescent lamps since the mercury-containing bulbs and tubes are considered a universal hazardous waste and must be disposed as such. Thus, although there may be minimal costs to switch to a compliant product, over time, operating costs may be less. MDE further notes that switching to light-emitting diode (LED) products also results in energy savings.

Most of the State agencies that responded to requests for information regarding this fiscal and policy note indicate that they either do not use affected lamps or are in the process of switching to LED products even in the absence of the bill.

Penalties

The application of existing penalty provisions is not anticipated to materially affect State revenues or State or local incarceration expenditures.

Small Business Effect: The bill has a meaningful impact on small businesses that manufacture, sell, or distribute affected lamps and are required to cease selling these products beginning January 1, 2024 (for screw- or bayonet-base type compact fluorescent lamps) or January 1, 2025 (for pin-base type compact fluorescent lamps or linear fluorescent lamps). Since there are costs to dispose of these products as universal hazardous waste, disposal costs may also increase for any products a small business is unable to sell before the product ban goes into effect.

Similar to the impact described above for State agencies and local governments, overall, the bill's product ban is anticipated to have minimal impact on small businesses as consumers. Although there may be minimal costs to switch to a compliant product, long-term operating costs may decrease from lower disposal costs and potentially from energy savings (depending on the alternative product chosen).

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Municipal League; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of General Services; Maryland Energy Administration; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2023
km/lgc

Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510