

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS85224-RTf-11 (03/14)

Short Title: Mercury Switch Removal Act.

(Public)

Sponsors: Senator Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE RELEASE OF MERCURY IN THE ENVIRONMENT
BY THE REMOVAL, COLLECTION, AND RECOVERY OF MERCURY
SWITCHES FROM CERTAIN MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended
by adding a new Part to read:

"Part 6. Mercury Switch Removal Act of 2005.

"§ 130A-310.50. Short title.

This Part may be cited as the Mercury Switch Removal Act of 2005.

"§ 130A-310.51. Definitions.

As used in this Part:

- (1) "Capture rate" means the annual removal, collection, and recovery of mercury switches as a percentage of the total number of mercury switches available for removal from end-of-life vehicles.
- (2) "End-of-life vehicle" means a vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or scrap metal recycling facility for the purpose of recycling.
- (3) "Manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that is the last person in the production or assembly process of a new vehicle that utilizes mercury switches, or in the case of an imported vehicle, the importer or domestic distributor of the vehicle.
- (4) "Mercury minimization plan" means a plan for removing, collecting, and recovering mercury switches from end-of-life vehicles that is prepared as provided in G.S. 130A-310.53.

- 1 (5) "Mercury switch" means each mercury-containing capsule, commonly
2 known as a "bullet", that is part of a convenience light switch assembly
3 or part of an anti-lock braking system assembly installed in a vehicle.
4 An anti-lock braking system assembly may contain more than one
5 mercury switch.
- 6 (6) "Scrap metal recycling facility" means a fixed location where
7 machinery and equipment are used to process scrap metal into specific
8 grades of scrap metal for sale and whose primary product is scrap iron,
9 scrap steel, or nonferrous metallic scrap.
- 10 (7) "Vehicle" means any passenger automobile or passenger car, station
11 wagon, truck, van, or sport utility vehicle with a gross vehicle weight
12 rating of less than 12,000 pounds.
- 13 (8) "Vehicle recycler" means an individual or entity engaged in the
14 business of acquiring, dismantling, or destroying six or more
15 end-of-life vehicles in a calendar year for the primary purpose of resale
16 of parts of the vehicle.

17 **"§ 130A-310.52. Purpose.**

18 The purpose of this Part is to reduce the quantity of mercury that is released into the
19 environment by removing mercury switches from end-of-life vehicles and by creating a
20 removal, collection, and recovery program for mercury switches that are removed from
21 end-of-life vehicles in this State.

22 **"§ 130A-310.53. Mercury minimization plan.**

23 (a) Every manufacturer of vehicles sold within this State shall develop a mercury
24 minimization plan prepared pursuant to this section and submit the plan to the
25 Department for review and approval pursuant to G.S. 130A-310.54. Manufacturers of
26 vehicles may develop and submit a plan either individually or as part of a group of
27 manufacturers. A manufacturer shall not be required to develop or implement a mercury
28 minimization plan if the manufacturer demonstrates to the satisfaction of the
29 Department that there is no significant risk of a release of mercury from any vehicle
30 manufactured by the manufacturer.

31 (b) The mercury minimization plan prepared and submitted pursuant to this
32 section shall include at a minimum all of the following:

- 33 (1) The make, model, and year of any vehicle, including current and
34 anticipated future production models, that are sold or offered for sale
35 by the vehicle manufacturer and that may contain one or more mercury
36 switches. For each make, model, and year the vehicle manufacturer
37 shall provide a description and the location of each mercury switch in
38 the vehicle and all safe and environmentally sound methods for
39 removal of mercury switches from end-of-life vehicles. If the
40 manufacturer does not know or is uncertain as to whether or not a
41 switch contains mercury, the plan shall be based on a presumption that
42 the switch does contain mercury.
- 43 (2) A system to mark end-of-life vehicles that are to be shredded or
44 crushed to indicate the presence or absence of a mercury switch.

1 (3) Educational materials to assist a vehicle recycler or a scrap metal
2 recycling facility in undertaking a safe and environmentally sound
3 method for the removal of the mercury switches from end-of-life
4 vehicles. The materials shall include information on hazards related to
5 mercury and on the proper handling of mercury.

6 (4) A proposed method for storage and disposal of the mercury switches,
7 including packaging and shipping of mercury switches to permitted
8 recycling, storage, or disposal facilities. To the extent adequate,
9 affordable, and environmentally sound mercury switch disposal
10 technology is unavailable, the plan shall provide for the temporary
11 storage of mercury switches.

12 (5) A proposed procedure for the transfer of information among entities
13 subject to the mercury minimization plan to enable vehicle
14 manufacturers and the Department to comply with the reporting
15 requirements set out in G.S. 130A-310.56.

16 (6) A proposal to implement and finance the plan in accordance with
17 subsection (d) of this section.

18 (c) To the extent practicable, a mercury minimization plan shall utilize the
19 currently available end-of-life vehicle recycling infrastructure. To the extent adequate,
20 affordable, and environmentally sound end-of-life vehicle recycling infrastructure is
21 unavailable, the plan shall provide for the development of this infrastructure.

22 (d) A mercury minimization plan shall provide a method to finance the removal,
23 collection, and recovery of mercury switches installed in vehicles manufactured by the
24 manufacturer and its predecessors and affiliates. In order to ensure that the costs of
25 removal, collection, and recovery of mercury switches are not borne by automobile
26 dealers, consumers, vehicle recyclers, scrap metal recycling facilities, the State or local
27 governments, or other persons who become responsible for end-of-life vehicles, these
28 costs shall be borne by the manufacturers of vehicles sold in the State. The plan shall
29 provide for prompt reimbursement by manufacturers to vehicle recyclers, scrap metal
30 recycling facilities, the Department, and others of any costs incurred for removal,
31 collection, and recovery of mercury switches. Costs shall include, but are not limited to,
32 the following:

33 (1) A minimum of five dollars (\$5.00) for each mercury switch removed
34 by a vehicle recycler pursuant to G.S. 130A-310.55(a) as partial
35 compensation for the labor and other costs incurred by a vehicle
36 recycler in the removal of the mercury switch.

37 (2) A minimum of five dollars (\$5.00) for each mercury switch removed
38 by a scrap metal recycling facility pursuant to G.S. 130A-310.55(b) as
39 partial compensation for the labor and other costs incurred by a scrap
40 metal recycling facility in the removal of the mercury switch.

41 (3) One dollar (\$1.00) for each mercury switch removed by a vehicle
42 recycler pursuant to G.S. 130A-310.55(a) or by a scrap metal recycling
43 facility pursuant to G.S. 130A-310.55(b) as partial compensation to the

1 Department for costs incurred in administering and enforcing the
2 provisions of this Part.

3 (4) The cost of packaging necessary to store or transport mercury switches
4 to recycling, storage, or disposal facilities.

5 (5) The cost of shipping mercury switches to recycling, storage, or
6 disposal facilities.

7 (6) The cost of recycling, storage, or disposal of mercury switches.

8 (7) The preparation and distribution to vehicle recyclers and scrap metal
9 recycling facilities of the educational materials required by subdivision
10 (3) of subsection (b) of this section.

11 (8) Maintenance of all appropriate record-keeping systems.

12 (e) Manufacturers of vehicles sold within this State shall reimburse vehicle
13 recyclers or scrap metal recycling facilities for each mercury switch removed, collected,
14 and recovered as provided in this section. Manufacturers shall reimburse vehicle
15 recyclers or scrap metal recycling facilities that maintain the records required by
16 G.S. 130A-310.55 for each mercury switch as provided in this section without regard to
17 the date on which the mercury switch is removed, collected, or recovered.

18 (f) Vehicle manufacturers shall indemnify, defend, and hold harmless vehicle
19 recyclers and scrap metal recycling facilities for any liability arising from the release of
20 mercury from the mercury switches.

21 **"§ 130A-310.54. Plan approval and implementation.**

22 (a) The Department shall review a mercury minimization plan within 120 days
23 after receiving the plan. As a part of its review the Department shall consider comments
24 received from vehicle recyclers, persons who operate scrap metal recycling facilities,
25 and other interested parties. The Department may approve or disapprove the entire plan
26 or may approve part of the plan and disapprove the remainder of the plan. If the
27 Department approves the plan in its entirety, the manufacturer shall begin
28 implementation of the plan within 30 days unless the Department approves a later
29 implementation date. If the Department disapproves the plan in its entirety, the
30 Department shall notify the manufacturer of the reasons for the disapproval. The
31 manufacturer shall submit a revised mercury minimization plan within 30 days. If the
32 Department approves a mercury minimization plan in part, the manufacturer shall
33 implement the approved parts of the mercury minimization plan within 30 days unless
34 the Department approves a later implementation date and shall submit a revision of
35 those parts of the plan that are disapproved within 30 days. Any part of a mercury
36 minimization plan that is not approved or disapproved within 120 days shall be deemed
37 approved, and the manufacturer shall begin implementation within 30 days.

38 (b) A manufacturer must obtain approval of all required parts of a mercury
39 minimization plan within 240 days of the date on which the manufacturer is required to
40 submit a plan for review under this Part. If a manufacturer fails to obtain approval of all
41 required parts of a mercury minimization plan within the 240 days, the Department shall
42 prepare a plan, notify the manufacturer of the plan, and direct the manufacturer to begin
43 implementation of the plan within 30 days.

1 (c) The Department may review an approved mercury minimization plan and
2 recommend or require the manufacturer to modify the plan at any time upon finding that
3 the approved mercury minimization plan as implemented no longer meets the
4 requirements of this Part.

5 **"§ 130A-310.55. Removal of mercury switches from end-of-life vehicles.**

6 (a) A vehicle recycler that is subject to an approved mercury minimization plan
7 and that conveys ownership of an end-of-life vehicle to a scrap metal recycling facility
8 shall remove all mercury switches identified in the mercury minimization plan prior to
9 delivery of the vehicle to the scrap metal recycling facility. If a mercury switch is
10 inaccessible due to the condition of the vehicle, the fact that the mercury switch remains
11 in the vehicle shall be noted on the vehicle recycler's invoice.

12 (b) A scrap metal recycling facility that is subject to an approved mercury
13 minimization plan and that accepts an end-of-life vehicle that has not been intentionally
14 flattened, crushed, baled, or shredded and that contains mercury switches shall remove
15 the mercury switches before the end-of-life vehicle is flattened, crushed, baled, or
16 shredded unless the mercury switch is inaccessible due to the condition of the vehicle.

17 (c) It shall be unlawful for any person to knowingly flatten, crush, bale, shred, or
18 otherwise alter the condition of a vehicle from which accessible mercury switches have
19 not been removed.

20 (d) A mercury switch is inaccessible if, due to the condition of the vehicle, the
21 switch cannot be removed in accordance with the approved mercury minimization plan
22 and removal of the switch would significantly increase the risk of a release of mercury
23 to the environment.

24 (e) A vehicle recycler or scrap metal recycling facility that removes mercury
25 switches pursuant to subsection (a) or (b) of this section shall maintain records of:

- 26 (1) The number of vehicles of each make, model, and year that are
27 processed for recycling.
28 (2) The number of mercury switches removed from each vehicle make,
29 model, and year.
30 (3) The number of vehicles processed for recycling.

31 (f) Each vehicle recycler and scrap metal recycling facility that is required to
32 maintain records under subsection (e) of this section shall retain the records for a
33 minimum of three years and shall make the records available for inspection by the
34 Department upon request.

35 (g) It shall be unlawful for a person who is required to remove mercury switches
36 under this Part to willfully fail to do so. It shall be unlawful for a person who is required
37 to make and maintain records under this Part to willfully fail to do so. It shall be
38 unlawful to knowingly make a false report that a mercury switch has been removed
39 from an end-of-life vehicle.

40 (h) Mercury switches that are removed from end-of-life vehicles shall be
41 collected, stored, transported, and otherwise handled in accordance with the approved
42 mercury minimization plan approved and the requirements of Part 2 of this Article.

43 (i) Mercury switches shall be removed from end-of-life vehicles so as to achieve
44 a capture rate of at least ninety percent (90%).

1 "§ 130A-310.56. Evaluation of vehicle design changes that affect mercury
2 recyclability; reporting requirements.

3 (a) Each vehicle manufacturer shall, either individually or as part of a group,
4 prepare an annual report that describes in detail the status of vehicle design changes that
5 are intended to facilitate recycling of vehicle components that contain mercury. At a
6 minimum the report shall include all of the following:

7 (1) For each make and model, a list of all vehicle components that contain
8 mercury for the previous three model years, the current model year,
9 and the next upcoming model year.

10 (2) A description of all design changes that each manufacturer has
11 implemented or will implement to reduce or eliminate vehicle
12 components that contain mercury, the achieved or anticipated amount
13 of each reduction, and when the design change will be implemented.

14 (3) A summary of all policies that each manufacturer has implemented or
15 will implement to ensure that the manufacturers' vehicles are designed
16 to be recycled in a safe, cost-effective, and environmentally sound
17 manner.

18 (4) A summary of any recommendations, complaints, or reports that the
19 manufacturer has received within the previous 12 months from vehicle
20 recyclers, scrap metal recycling facilities, government entities, or other
21 persons, as well as any other information available to the
22 manufacturer, regarding vehicle design features that adversely affect
23 the recyclability of vehicle components that contain mercury.

24 (b) Each vehicle manufacturer shall submit, either individually or as part of a
25 group, the report required by subsection (a) of this section on or before 1 July of each
26 year.

27 (c) The Department may evaluate the extent to which vehicle design promotes or
28 impedes recycling of vehicle components that contain mercury. The Department may
29 conduct hearings from time to time to receive public comment regarding vehicle design
30 changes that affect recycling of vehicle components that contain mercury. The
31 Department may develop recommendations as to changes in vehicle design that would
32 further promote the recyclability of these components. The Department shall report its
33 findings and recommendations, including any legislative proposals, to the
34 Environmental Review Commission on or before 1 October of each year.

35 (d) Each vehicle manufacturer that is required to implement a mercury
36 minimization plan shall prepare, either individually or as part of a group, an annual
37 report on the implementation of the plan. The report shall be submitted to the
38 Department within 90 days after the end of the anniversary of the date on which the
39 manufacturer is required to begin implementation of the plan. The report shall include,
40 at a minimum, all of the following:

41 (1) A detailed description and documentation of the capture rate achieved.

42 (2) In the event that a capture rate of at least ninety percent (90%) is not
43 achieved, a description of additional or alternative actions that may be

1 implemented to improve the mercury minimization plan and its
2 implementation.

3 (3) The number of mercury switches collected, the number of end-of-life
4 vehicles containing mercury switches, the number of end-of-life
5 vehicles processed for recycling, and a description of how the mercury
6 switches were managed.

7 (4) A statement that details the costs required to implement the mercury
8 minimization plan.

9 **"§ 130A-310.57. Adoption of rules; administrative procedure; enforcement.**

10 (a) The Commission may adopt rules to implement this Part.

11 (b) Chapter 150B of the General Statutes governs implementation of this Part.

12 (c) This Part may be enforced as provided in Part 2 of Article 1 of this Chapter."

13 **SECTION 2.** G.S. 130A-310.53, as enacted by Section 1 of this act becomes
14 effective 1 January 2006. G.S. 130A-310.56 becomes effective 1 July 2007. All other
15 provisions of Part 6 of Article 9 of Chapter 130A of the General Statutes, as enacted by
16 Section 1 of this act, and Section 2 of this act become effective when this act becomes
17 law. This act expires on 1 July 2006.