

2009 BILL

AN ACT to create 20.370 (2) (hs), 25.49 (1g), 287.03 (1) (g), 287.07 (4m) and 287.16 of the statutes; **relating to:** the sale, disposal, collection, and recycling of mercury-added lamps and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill requires a manufacturer who sells, or has previously sold, mercury-added lamps to households in this state, to submit a recycling plan to the Department of Natural Resources (DNR). A manufacturer must submit the plan not later than July 1, 2011, or prior to the first sale of mercury-added lamps in this state if the first sale is after July 1, 2011. A mercury-added lamp is an electric lamp to which mercury is intentionally added during the manufacturing process. The manufacturer must also submit an annual report and pay an annual recycling administration fee to DNR. A manufacturer that has not sold mercury-added lamps to households in this state at any time during the previous, ten years and that does not resume such sales after that period, is not required to comply with these requirements.

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Under the bill, a recycling plan submitted to DNR must establish collection locations at which mercury-added lamps derived from households may be deposited without cost to the household or the collection site owner or designated agent, must include a public education component to provide information about recycling and the safe storage and handling of used mercury-added lamps, and must establish a procedure for the delivery of mercury-added lamps from collection locations to a recycler. The bill authorizes manufacturers to establish joint recycling programs or to participate in the creation of an entity to collect and recycle mercury-added lamps.

Comment [m1]: Is this what was intended???

The bill requires DNR to review a manufacturer's recycling plan within three months of its submission. Within 30 days after completing its review, DNR must notify the manufacturer of any deficiencies in the manufacturer's plan. If DNR determines that an original or modified plan complies with the plan requirements established in the bill, DNR must approve the plan. If the plan is deficient and the manufacturer fails to remedy the plan, DNR must disapprove the plan. In that instance, no person may sell the manufacturer's mercury-added lamps to households in this state until the manufacturer submits a new plan and that plan is approved by DNR. The bill requires a manufacturer to fully implement an approved plan no more than 12 months after DNR approves the plan. The bill requires DNR, in approving recycling plans, to establish a goal of achieving by January 1, 2015, an average yearly recycling rate of 70 percent of the total weight of mercury-added lamps sold to households in this state.

The bill also requires each manufacturer to submit an annual report to DNR that includes information about the total weight of mercury-added lamps derived from households that are recycled

by the manufacturer in the previous year, an evaluation of the effectiveness of the manufacturer's plan, and any planned actions for increasing the total weight of mercury-added lamps recycled under the plan. The bill requires a manufacturer upon submission of a plan, and annually after implementation of the plan, to pay a recycling administration fee to DNR of \$5,000.

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Beginning on July 1, 2013, the bill prohibits a retailer from selling a mercury-added lamp unless the retailer determines that the manufacturer is on a list, maintained by DNR, of manufacturers that have fully implemented an approved recycling plan.

Current law prohibits various items, including lead acid batteries and major appliances, from being disposed of in landfills and from being incinerated. This bill prohibits the disposal in landfills and the incineration of mercury-added lamps. The prohibition takes effect on July 1, 2013.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.370 (2) (hs) of the statutes is created to read:

20.370 (2) (hs) *Mercury-added lamp recycling.* From the recycling and renewable energy fund, all moneys received under s. 287.16 (7) for administration of the mercury-added lamp recycling program under s. 287.16.

SECTION 2. 25.49 (1g) of the statutes is created to read:

25.49 (1g) The moneys received under s. 287.16 (7).

SECTION 3. 287.03 (1) (g) of the statutes is created to read:

287.03 (1) (g) Maintain an updated list of manufacturers that have fully implemented an approved recycling plan under s. 287.16 (5).

SECTION 4. 287.07 (4m) of the statutes is created to read:

287.07 (4m) **MERCURY-ADDED LAMPS.** (a) In this subsection, "mercury-added lamp" has the meaning given in s. 287.16 (1) (e).

(b) Beginning on July 1, 2013, no person may knowingly do any of the following:

1. Dispose of a mercury-added lamp in a solid waste disposal facility.
2. Burn a mercury-added lamp in a solid waste treatment facility.
3. Place a mercury-added lamp in a container the contents of which will be disposed of in a solid waste disposal facility or burned in a solid waste treatment facility.

(c) The operator of a solid waste disposal facility or a solid waste treatment facility shall make a reasonable effort to manually separate, and arrange to have recycled, a mercury-added lamp, as defined in s. 287.16 (1) (e), that is readily observable in solid waste that is delivered to the facility for disposal or burning unless the operator determines that separating the mercury-added lamp is not practical or would require the operator to implement measures to protect human health or safety in addition to any measures taken in the ordinary course of business.

SECTION 5. 287.16 of the statutes is created to read:

287.16 Mercury-added lamp recycling. (1) DEFINITIONS. In this section:

(a) "Collection" means the act of receiving mercury-added lamps derived from households and delivering, or arranging for the delivery of, the mercury-added lamps to a recycler.

(b) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(c) "Household" means one or more individuals who occupy one dwelling unit in a detached or multiunit building.

(d) "Manufacturer" means a person who does, or who previously has done, any of the following:

1. Manufacture mercury-added lamps to be sold under the person's own brand.
2. Sell mercury-added lamps manufactured by others under the person's own brand.
3. License the person's brand for manufacture and sale of mercury-added lamps by others.

(e) "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process.

(f) "Recycler" means a person who accepts mercury-added lamps for recycling.

(g) "Recycling" means preparing mercury-added lamps for use in manufacturing processes or for recovery of useable materials and delivering the materials for use. "Recycling" does not include destruction by incineration or other processes or land disposal of recyclable materials and does not include reuse, repair, or any other process through which eligible mercury-added lamps are returned for use by households in their original form.

(h) "Retailer" means any person engaged in the retail sale of mercury-added lamps to persons in this state.

(i) "Sold" or "sell" or "sale" means to transfer title or the right to use for consideration ~~from s. 287.17(1)(o)].~~

(2) PLAN SUBMISSION. (a) Except as provided in par. (b), not later than July 1, 2011, a manufacturer who sells, offers to sell or delivers to a retailer for subsequent sale a mercury-added lamps in this state shall submit a recycling plan to the department that establishes a program for recycling, or arranging for recycling, mercury-added lamps derived from households. The plan shall do all of the following:

1. Establish collection locations throughout this state at which mercury-added lamps derived from households may be deposited without cost to the household or the collection site owner or designated agent. The plan shall provide that the manufacturer shall establish at least one collection site for each 10,000 residents in each county that has a population of fewer than 30,000 residents. The plan shall include a list of the collection locations, including contact information and street addresses of the collection sites, and actions the manufacturer has taken to ensure that the collection site will operate in compliance with the Wisconsin Universal Waste and Hazardous Waste standards

2. Include a public education component to provide information about the reasons to recycle, local opportunities for recycling, and the safe storage and handling of used mercury-added lamps derived from households.

3. Establish a procedure for the delivery of mercury-added lamps, in containers approved by the department, from collection locations to a recycler. The department may not approve a container under this subdivision unless the manufacturer has demonstrated to department satisfaction that the container is designed to prevent the escape of mercury into the environment by volatilization or other means. The plan shall include a list of recyclers working or employed as part of a manufacturer plan, including the contact name and street address for the recycling facility. The plan shall document actions the manufacturer has taken to ensure that the recycler will operate in compliance with the Wisconsin Universal Waste and Hazardous Waste standards.

(b) 1. A manufacturer who sells, offers to sell or delivers to a retailer for subsequent sale a mercury-added lamps to households in this state on or after July 1, 2011, shall submit a recycling plan under this subsection to the department before the manufacturer sells any mercury-added lamps to households in this state.

Comment [m2]: Used language similar to s. 287.17(2)(a)

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Comment [m3]: Is this what was intended? Need to clarify...

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Comment [m4]: Our attorney, Pete Flaherty, will provide Robin with the statutory reference.

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Comment [m5]: Our attorney, Pete Flaherty, will provide Robin with the statutory reference.

Comment [m6]: Used language similar to s. 287.17(2)(a)

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2. Reword this: the intent is that a manufacturer must register and continue to register each year and be part of a plan (or submit their own) if they sold, offered for sale or delivered to a retailer for sale a mercury-added lamp to a Wisconsin household at any time during the previous 10 years from July 1, 2011. If a manufacturer has not sold or delivered to a retailer for sale a mercury added lamp to a Wisconsin household within a 10 year period from their last date of sale, past July 1, 2011, they don't have to register and they can drop out of a plan.

Deleted: Paragraph (a) does not apply to a manufacturer if the manufacturer has not sold mercury-added lamps to households in this state for 10 consecutive years and does not resume such sales upon expiration of that 10-year period.

(c) A manufacturer may establish a recycling program under this subsection jointly with other manufacturers and may participate with other manufacturers in creating an entity for the collection and recycling of mercury-added lamps derived from households.

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(d) The department may require a manufacturer to submit a revised plan under this subsection consistent with any recommendations contained in the manufacturer's report under sub. (6) for increasing the weight of mercury-added lamps recycled under the manufacturer's plan. The department shall review a plan submitted under sub. (2) within 3 months of its submission to determine whether the plan complies with the requirements of sub. (2).

(e) The department shall publish each plan submitted under this subsection as a class I notice under ch. 985 and shall make the plan available on the department's Internet Web site.

(3) **PLAN REVIEW.** The department shall review a plan submitted under sub. (2) within 3 months of its submission to determine whether the plan complies with the requirements of sub. (2). Within 30 days after completing its review, the department shall notify a manufacturer of any deficiencies in the manufacturer's plan. If an original or modified plan complies with the requirements of sub. (2), the department shall approve the plan. If a manufacturer fails to remedy deficiencies in the manufacturer's plan by a deadline set by the department, the department shall disapprove the plan and no person may sell the manufacturer's mercury-added lamps to households in this state until all of the following occur:

- (a) The manufacturer submits a new plan.
- (b) The manufacturer pays a fee in the amount specified under sub. (7) for submitting an original plan.
- (c) The department approves the plan.

(4) **GOAL.** The department shall approve plans under sub. (3) with a goal of achieving by January 1, 2015, an average yearly recycling rate of 70 percent of the total weight of mercury-added lamps sold to households in this state.

(5) **PLAN IMPLEMENTATION.** Upon approval under sub. (3) of a manufacturer's plan, the manufacturer shall implement the plan. A manufacturer shall fully implement its plan no more than 12 months after the department approves the plan under sub. (3).

(6) **ANNUAL REPORT REQUIREMENT.** Within 12 months of approval of its plan and annually thereafter, a manufacturer shall submit a report to the department that includes all of the following:

(a) The total weight of mercury-added lamps derived from households that the manufacturer recycled under the plan in the previous year.

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(b) The estimated total weight of the manufacturer's mercury-added lamps derived from households that were sold in the previous year and the methodology used for estimating that number.

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(c) An evaluation of the effectiveness of the manufacturer's plan.

(d) An accounting of the costs associated with administering the plan in the previous year.

Comment [m7]: (d) is redundant with (f).

(e) A description of proposed changes to increase the weight of mercury-added lamps collected from households for recycling to the manufacturer's plan including changes to collection site locations and recyclers to whom the manufacturer delivers, or has delivered, mercury-added lamps for recycling.

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(7) FEE. Upon submission of a plan under sub. (2), and annually after implementation of a plan under sub. (5), a manufacturer shall pay a recycling administration fee of \$5,000 to the department. This subsection does not apply to a manufacturer if the manufacturer has not sold mercury-added lamps to households in this state at any time during the previous 10 years and does not resume such sales upon expiration of that 10-year period.

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(8) RETAILERS. Beginning on July 1, 2013, a retailer may not sell or offer to sell a mercury-added lamp produced by a manufacturer unless, before making the first offer for sale, the retailer has determined that the manufacturer is on the list maintained by the department under s. 287.03 (1) (g).

(9) COOPERATION. The department shall encourage communication between local governments, persons operating solid waste collection and recycling centers, and manufacturers to promote cooperation in establishing and maintaining effective methods for recycling mercury-added lamps derived from households.

(10) On or before January 1, 2015, the department shall submit a report to the appropriate standing committees of the legislature under s. 13.172 (3) of the statutes on the recycling of mercury-added lamps under this section for the period beginning immediately after

the date of submission of the report under 2009 Wisconsin Act (this act), section 6 (1). The report shall include the information required for the report specified under 2009 Wisconsin Act (this act), section 6 (1). The report shall also contain an assessment of whether the goal under sub. (4) has been met. If the assessment in the report provides that the goal has not been met, the report shall include recommendations for revising mercury-added lamp collection and recycling procedures to achieve that goal.

SECTION 6. Nonstatutory provisions.

(1) On or before January 1, 2013, the department of natural resources shall submit a report to the appropriate standing committees of the legislature in the manner provided under section 13.172 (3) of the statutes on the recycling of mercury-added lamps derived from households. The report shall include all of the following:

(a) An assessment of the costs of implementing the requirements of section 287.16 of the statutes, as created by this act, to manufacturers, consumers, and local governmental units.

✓ (b) After consulting with manufacturers of mercury-added lamps and with persons who receive mercury-added lamps derived from households and deliver, or arrange for the delivery of, those lamps to a recycler, recommendations for streamlining the recycling of mercury-added lamps.

✓ (c) A review and assessment of education and outreach methods that, if implemented, would improve the rate of recycling of mercury-added lamps derived from households.

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implemented
by whom?

Kite, Robin

From: Barry, Sarah
Sent: Monday, February 15, 2010 8:41 AM
To: Kite, Robin
Subject: FW: Revisions to LRB 3096_1 dated Feb 10, 2010
Importance: High
Attachments: DNR comments LRB3096_1 Feb 11 2010.doc

Robin,

I understand Pete Flaherty from DNR called you to discuss a few suggestions they have re: the mercury lamp recycling bill. I don't think there are any problems with making these revisions. If you agree, please go ahead and make the modifications—give me a call if you want to discuss.

Thank you,

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

608-216-4355 (cell)

<http://legis.wisconsin.gov/senate/sen25/news/>

From: Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]
Sent: Friday, February 12, 2010 3:47 PM
To: Barry, Sarah; Bangert, Suzanne A - DNR
Cc: Flaherty, Peter D - DNR; Graff, Daniel A - DNR; Cooper, Catherine E - DNR
Subject: Revisions to LRB 3096_1 dated Feb 10, 2010
Importance: High

Sarah and Sue

I've copied Dan Graff and Pete Flaherty (Waste program attorneys) on this message so they are kept in the loop.

I've incorporated the suggestions from Dan and Peter, along with the other items that Sue and I discussed this afternoon. I hope I was able to capture them all, and accurately. Please let me know if I need to change anything- I will be working over the weekend (but not Monday)...

Upon further reading, I DID NOT move s. 287.16(2)(d) to section (3) as we had discussed (page 6, line 1-4 of the draft bill), but I did add a statement that the department should review in 3 months. I believe the intent of (d) was to enable the department to require the manufacturer to prepare a revised plan or new plan to replace the original plan, not just in response to a plan review process. If you don't agree with my interpretation, please let me, or Sarah Barry, know directly.

02/16/2010

I have to leave now, but will be available for further revisions on the weekend if necessary.

Have a great weekend

Cynthia G. Moore

Recycling Program Coordinator
Recycling and Solid Waste Section
Bureau of Waste & Materials Management
Wisconsin Department of Natural Resources

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(✉) e-mail: Cynthia.Moore@wisconsin.gov

Kite, Robin

From: Flaherty, Peter D - DNR [Peter.Flaherty@Wisconsin.gov]
Sent: Tuesday, February 16, 2010 4:14 PM
To: Kite, Robin
Subject: FW: mercury-added lamps

Robin,

As I mentioned on the phone, one goal of the bill was to require lamp collectors and recyclers to meet the standards that would apply to them IF the lamps were not RCRA - exempt household wastes. However, I was imprecise (if not wrong) in saying that we wanted the lamp collectors and recyclers "to be subject to the universal waste standards in ch. NR 673".

Under state and federal law, universal wastes are a subset of hazardous waste, and there are reduced requirements for universal waste handlers and transporters, but not for destination facilities (facilities that treat, dispose of or recycle universal wastes at their facility). Destination facilities are subject to full regulation under the hazardous waste rules and are regulated as hazardous waste treatment, storage or disposal facilities (TSDFs) under chs. NR 664 to 670.

In an effort to define terms used in this bill with reference to the universal waste rules, we have:

1. "Collectors" who receive mercury-added lamps derived from households and deliver, or arrange for the delivery of, the mercury-added lamps to a recycler.

"Collectors" would be "handlers" and/or "transporters" (under NR 673. There are separate standards for large and small quantity universal waste handlers.

2. "Recyclers" who accept mercury-added lamps for recycling, which involves preparing mercury-added lamps for use in manufacturing processes or for recovery of useable materials and delivering the materials for use. "Recycling" does not include destruction by incineration or other processes or land disposal of recyclable materials and does not include reuse, repair, or any other process through which eligible mercury-added lamps are returned for use by households in their original form.

"Recyclers" are comparable to "destination facilities" under NR 673. Section NR 673.60 (1) explains that universal waste destination facilities are subject to full hazardous waste regulation as TSDFs:

NR 673.60 Applicability. (1) The owner or operator of a destination facility is subject to all applicable requirements of chs. NR 664 to 670.

(2) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled shall comply with s. NR 661.06 (3) (b).
(Underline added.)

Thanks!

Peter D. Flaherty, Attorney
Bureau of Legal Services
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921
Phone: (608) 266-8254
Fax: (608) 266-6983
E-mail: Peter.Flaherty@wisconsin.gov



2009 BILL

In 2/19

D-Note

Regen

1 AN ACT to create 20.370 (2) (hs), 25.49 (1g), 287.03 (1) (g), 287.07 (4m) and 287.16
 2 of the statutes; relating to: the sale, disposal, collection, and recycling of
 3 mercury-added lamps and making an appropriation.

Analysis by the Legislative Reference Bureau

insert
Analysis

This bill ~~requires~~ a manufacturer who sells, or has previously sold, mercury-added lamps to households in this state, ~~to submit a recycling plan to the Department of Natural Resources (DNR).~~ A manufacturer must submit the plan not later than July 1, 2011, or prior to the first sale of mercury-added lamps in this state if the first sale is after July 1, 2011. A mercury-added lamp is an electric lamp to which mercury is intentionally added during the manufacturing process. The manufacturer must also submit an annual report and pay an annual recycling administration fee to DNR. A manufacturer that has not sold mercury-added lamps to households in this state for a period of ten consecutive years and that does not resume such sales after that period, is not required to comply with these requirements.

Under the bill, a recycling plan submitted to DNR must establish collection locations at which mercury-added lamps may be deposited without cost, must include a public education component to provide information about recycling and the safe storage and handling of used mercury-added lamps, and must establish a procedure for the delivery of mercury-added lamps from collection locations to a recycler. The bill authorizes manufacturers to establish joint recycling programs or to participate in the creation of an entity to collect and recycle mercury-added lamps.

BILL

Under this
~~The bill requires~~ DNR ^{to} ~~to~~ review a manufacturer's recycling plan within three months of its submission. Within 30 days after completing its review, DNR must notify the manufacturer of any deficiencies in the manufacturer's plan. If DNR determines that an original or modified plan complies with the plan requirements established in the bill, DNR must approve the plan. If the plan is deficient and the manufacturer fails to remedy the plan, DNR must disapprove the plan. ~~In that instance, no person may sell the manufacturer's mercury-added lamps to households in this state until the manufacturer submits a new plan and that plan is approved by DNR.~~ *must*
 The bill requires a manufacturer to fully implement an approved plan no more than 12 months after DNR approves the plan. The bill requires DNR, in approving recycling plans, to establish a goal of achieving by January 1, 2015, an average yearly recycling rate of 70 percent of the total weight of mercury-added lamps sold to households in this state. *and household*

The bill also requires each manufacturer to submit an annual report to DNR that includes information about the total weight of ~~mercury-added~~ lamps recycled by the manufacturer in the previous year, an evaluation of the effectiveness of the manufacturer's plan, ~~and any recommendations for increasing the total weight of mercury-added lamps recycled under the plan.~~
 The bill requires a manufacturer upon submission of a plan, and ~~annually after implementation of the plan~~ to pay a recycling administration fee to DNR of \$5,000. *with each annual registration*

to a household
 Beginning on July 1, 2013, the bill prohibits a retailer from selling a mercury-added lamp unless the retailer determines that the manufacturer is on a list, maintained by DNR, of manufacturers that have fully implemented an approved recycling plan.

Current law prohibits various items, including lead acid batteries and major appliances, from being disposed of in landfills and from being incinerated. This bill prohibits the disposal in landfills and the incineration of mercury-added lamps. The prohibition takes effect on July 1, 2013.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.370 (2) (hs) of the statutes is created to read:
 2 20.370 (2) (hs) *Mercury-added lamp recycling.* From the recycling and
 3 renewable energy fund, all moneys received under s. 287.16 ⁽⁸⁾ for administration
 4 of the mercury-added lamp recycling program under s. 287.16.

5 **SECTION 2.** 25.49 (1g) of the statutes is created to read:
 6 25.49 (1g) The moneys received under s. 287.16 ⁽⁸⁾

BILL

1 **SECTION 3.** 287.03 (1) (g) of the statutes is created to read:

2 287.03 (1) (g) Maintain an updated list of manufacturers that have fully
3 implemented an approved recycling plan under s. 287.16 ~~(5)~~ ^(b).

4 **SECTION 4.** 287.07 ~~(4m)~~ ^(4r) of the statutes is created to read:

5 287.07 ~~(4m)~~ ^(4r) (MERCURY-ADDED LAMPS. (a) In this subsection, "mercury-added

6 lamp" ~~has the meaning given in s. 287.16 (1) (e)~~ ^{means an electric lamp to which mercury is intentionally added during the manufacturing process}

7 (b) Beginning on July 1, 2013, no person may knowingly do any of the following:

8 1. Dispose of a mercury-added lamp in a solid waste disposal facility. ^{manufacturin}

9 2. Burn a mercury-added lamp in a solid waste treatment facility.

10 3. Place a mercury-added lamp in a container the contents of which will be
11 disposed of in a solid waste disposal facility or burned in a solid waste treatment
12 facility.

13 (c) The operator of a solid waste disposal facility or a solid waste treatment
14 facility shall make a reasonable effort to manually separate, and arrange to have
15 recycled, a mercury-added lamp, ~~as defined in s. 287.16 (1) (e)~~ ^{as defined in s. 287.16 (1) (e)} that is readily
16 observable in solid waste that is delivered to the facility for disposal or burning
17 unless the operator determines that separating the mercury-added lamp is not
18 practical or would require the operator to implement measures to protect human
19 health or safety in addition to any measures taken in the ordinary course of business.

20 **SECTION 5.** 287.16 of the statutes is created to read:

21 **287.16 Mercury-added lamp recycling.** (1) DEFINITIONS. In this section:

22 (a) "Collection" means the act of receiving mercury-added lamps ^{derived} from
23 households and delivering, or arranging for the delivery of, the mercury-added
24 lamps to a recycler.

BILL

SECTION 5

1 (b) "Dwelling unit" means a single unit providing complete, independent living
2 facilities for one or more persons, including permanent provisions for living,
3 sleeping, eating, cooking, and sanitation.

4 (c) "Household" means one or more individuals who occupy one dwelling unit
5 in a detached or multiunit building.

6 (d) "Manufacturer" means a person who does, or who previously has done, any
7 of the following:

- 8 1. Manufacture mercury-added lamps to be sold under the person's own brand.
- 9 2. Sell mercury-added lamps manufactured by others under the person's own
10 brand.
- 11 3. License the person's brand for manufacture and sale of mercury-added
12 lamps by others.

13 (e) "Mercury-added lamp" means an electric lamp to which mercury is
14 intentionally added during the manufacturing process.

15 (f) "Recycler" means a person who accepts mercury-added lamps for recycling.

16 (g) "Recycling" means preparing mercury-added lamps for use in
17 manufacturing processes or for recovery of useable materials and delivering the
18 materials for use. "Recycling" does not include destruction by incineration or other
19 processes or land disposal of recyclable materials and does not include reuse, repair,
20 or any other process through which eligible mercury-added lamps are returned for
21 use by households in their original form.

22 (h) "Retailer" means any person engaged in the retail sale of mercury-added
23 lamps to persons in this state.

insert
4-23

24 (2) PLAN SUBMISSION. (a) ~~Except as provided in par. (b) not later than July 1,~~

(25) ~~(2021)~~ a manufacturer whose mercury-added lamps are or were sold in this state
To comply with sub. (2),

BILL

1 shall submit a recycling plan to the department that establishes a program for
2 recycling, or arranging for recycling, mercury-added lamps. The plan shall do all of
3 the following:

derived from households use twice

4 1. Establish collection locations throughout this state at which mercury-added
5 lamps may be deposited without cost. The plan shall provide that the manufacturer
6 shall establish at least one collection site for each 10,000 residents in each county
7 that has a population of fewer than 30,000 residents.

to the household of owner of the collection site

insert 5-7

8 2. Include a public education component to provide information about the
9 reasons to recycle, local opportunities for recycling, and the safe storage and
10 handling of used mercury-added lamps.

derived from households use twice

11 3. Establish a procedure for the delivery of mercury-added lamps, in containers
12 approved by the department, from collection locations to a recycler. The department
13 may not approve a container under this subdivision unless the container is designed
14 to prevent the escape of mercury into the environment by volatilization or other
15 means.

the department determines that the

16 ~~(b) 1. A manufacturer whose first sales of mercury-added lamps to households
17 in this state occurs on or after July 1, 2011, shall submit a recycling plan under this
18 subsection to the department before the manufacturer sells any mercury-added
19 lamps to households in this state.~~

20 2. Paragraph (a) does not apply to a manufacturer if the manufacturer has not
21 sold mercury-added lamps to households in this state for 10 consecutive years and
22 does not resume such sales upon expiration of that 10-year period.

23 (c) A manufacturer may establish a recycling program under this subsection
24 jointly with other manufacturers and may participate with other manufacturers in
25 creating an entity to collect and recycle mercury-added lamps.

derived from households

BILL

1 (d) The department may require a manufacturer to submit a revised plan under
 2 this subsection consistent with any recommendations contained in the
 3 manufacturer's report under sub. ⁽⁷⁾~~(6)~~ for increasing the weight of mercury-added
 4 lamps recycled under the manufacturer's plan.

5 (e) The department shall publish each plan submitted under this subsection
 6 as a class I notice under ch. 985 and shall make the plan available on the
 7 department's Internet Web site.

8 ⁽⁴⁾~~(3)~~ PLAN REVIEW. The department shall review a plan submitted under sub. ⁽³⁾~~(2)~~
 9 within 3 months of its submission to determine whether the plan complies with the
 10 requirements of sub. ⁽³⁾~~(2)~~. Within 30 days after completing its review, the department
 11 shall notify a manufacturer of any deficiencies in the manufacturer's plan. If an
 12 original or modified plan complies with the requirements of sub. ⁽³⁾~~(2)~~ the department
 13 shall approve the plan. If a manufacturer fails to remedy deficiencies in the
 14 manufacturer's ^{original or modified} plan by a deadline set by the department, the department shall
 15 disapprove the plan and ~~the manufacturer shall~~ the manufacturer's mercury-added
 16 lamps to households in this state until all of the following occur:

- 17 (a) The manufacturer submits a new plan.
- 18 (b) The manufacturer ~~pays a fee in the amount~~ specified under sub. (7) for
 19 submitting an original plan.
- 20 (c) The department approves the plan.

21 ⁽⁵⁾~~(4)~~ GOAL. The department shall approve plans under sub. ⁽⁴⁾~~(3)~~ with a goal of
 22 achieving by January 1, 2015, an average yearly recycling rate of 70 percent of the
 23 total weight of mercury-added lamps sold to households in this state.

24 ⁽⁶⁾~~(5)~~ PLAN IMPLEMENTATION. Upon approval under sub. ⁽⁴⁾~~(3)~~ of a manufacturer's
 25 plan, the manufacturer shall implement the plan. A manufacturer shall fully

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1 implement its plan no more than 12 months after the department approves the plan
2 under sub. ~~(3)~~ ⁽⁴⁾ ✓

3 ~~(6)~~ ⁽⁷⁾ ANNUAL REPORT REQUIREMENT. Within 12 months of approval of its plan and
4 annually thereafter, a manufacturer shall submit a report to the department that
5 includes all of the following:

6 (a) The total weight of mercury-added lamps ^{derived from households} that the manufacturer recycled
7 under the plan in the previous year.

8 (b) The estimated total weight of the manufacturer's mercury-added lamps
9 that were sold ^{to households} in the previous year and the methodology used for estimating that
10 number.

11 (c) An evaluation of the effectiveness of the manufacturer's plan.

12 ~~(d) Any recommendations that the manufacturer has for increasing the total~~
13 ~~weight of mercury-added lamps recycled under the plan.~~

14 ~~(e) An accounting of the costs associated with administering the plan in the~~
15 ~~previous year.~~

16 ~~(f) A description of any proposed ^{changes} ~~changes~~ to the manufacturer's plan ^{be made to} including~~
17 ~~changes to collection site locations and recyclers to whom the manufacturer delivers,~~
18 ~~or has delivered, mercury-added lamps for recycling.~~

19 ~~(7)~~ ⁽⁸⁾ FEE. Upon submission of a plan under sub. ~~(2)~~ ⁽³⁾ ✓ and annually ~~after~~ ^{with a registration filed under sub. (2)} ✓
20 ~~implementation of a plan under sub. (5)~~ a manufacturer shall pay a recycling
21 administration fee of \$5,000 to the department. This subsection does not apply to
22 a manufacturer if the manufacturer has not sold ^{any} mercury-added lamps to
23 households in this state for 10 consecutive years and does not resume such sales upon
24 expiration of that 10-year period.

to increase the weight of mercury-added lamps collected from households for recycling

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~~(8)~~ (9) (8)

1 (8) RETAILERS. Beginning on July 1, 2013, a retailer may not sell or offer to sell
2 a mercury-added lamp produced by a manufacturer unless, before making the first
3 offer for sale, the retailer has determined that the manufacturer is on the list
4 maintained by the department under s. 287.03 (1) (g).

~~(9)~~ (10) (6)

5 (9) COOPERATION. The department shall encourage communication between
6 local governments, persons operating solid waste collection and recycling centers,
7 and manufacturers to promote cooperation in establishing and maintaining effective
8 methods for recycling mercury-added lamps. *derived from households*

~~(10)~~ (11) (6) REPORT. (5)

9 (10) On or before January 1, 2015, the department shall submit a report to the
10 appropriate standing committees of the legislature under s. 13.172 (3) of the statutes
11 on the recycling of mercury-added lamps. *under this section* for the period beginning immediately after
12 the date of submission of the report under 2009 Wisconsin Act (this act), section
13 6 (1). The report shall include the information required for the report specified under
14 2009 Wisconsin Act (this act), section 6 (1). The report shall also contain an
15 assessment of whether the goal under sub. (4) *(5)* has been met. If the assessment in the
16 report provides that the goal has not been met, the report shall include
17 recommendations for revising mercury-added lamp collection and recycling
18 procedures to achieve that goal.

19 **SECTION 6. Nonstatutory provisions.**

20 (1) On or before January 1, 2013, the department of natural resources shall
21 submit a report to the appropriate standing committees of the legislature in the
22 manner provided under section 13.172 (3) of the statutes on the recycling of
23 mercury-added lamps. The report shall include all of the following:

derived from households

BILL

1 (a) An assessment of the costs of implementing the requirements of section
2 287.16 of the statutes, as created by this act, to manufacturers, consumers, and local
3 governmental units. *derived from households*

4 (b) After consulting with manufacturers of mercury-added lamps and with
5 persons who receive mercury-added lamps *derived* from households and deliver, or arrange
6 for the delivery of, those lamps to a recycler, recommendations for streamlining the
7 recycling of mercury-added lamps *derived from households*

8 (c) A review and assessment of education and outreach methods that, if
9 implemented by ~~the Department~~ *manufacturers* would improve the rate of recycling of
10 mercury-added lamps *derived from households*

(END)

D-Note

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3096/2ins.
RNK:.....

INSERT ANALYSIS

1 This bill imposes requirements on manufacturers that sell, or that have
previously sold, mercury-added lamps to households in this state. The bill defines
a mercury-added lamp as any electric lamp to which mercury is intentionally added
during the manufacturing process. The bill requires manufacturers, beginning on
January 1, 2013, to file an annual registration with the Department of Natural
Resources (DNR) and to pay an annual fee. The registration must also include an
annual report containing specific information required by DNR. Under the bill, a
manufacturer must implement a recycling plan approved by DNR for recycling
mercury-added lamps derived from households (household lamps). If a
manufacturer fails to annually register with DNR, pay an annual registration fee,
or fully implement an approved recycling plan, the manufacturer may not conduct
business of any kind in this state. All of these requirements cease to apply to a
manufacturer after the expiration of a ^{ten-}10 year period during which the manufacturer
does not sell any household lamps in this state.

2 Under this bill in order for a manufacturer to comply with registration
requirements established under the bill, the manufacturer must submit a recycling
plan to DNR for approval. The bill provides that DNR may not approve a recycling
plan unless the plan contains certain information. The plan must contain, among
other things, information about the collection sites established by the manufacturer
at which household lamps may be deposited for recycling, information about the
procedure established by the manufacturer for the delivery of household lamps
from collection sites to a recycler, and information about public education provided
by the manufacturer that gives information about recycling and the safe storage and

single
space

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1 handling of used household lamps. The bill authorizes manufacturers to establish
2 joint recycling programs or to participate in the creation of an entity to collect and
3 recycle household lamps.

INSERT 4-23

4 (i) "Sell" means sell to a household, offer to sell to a household, or deliver to a
5 retailer for subsequent sale to a household.

6 (2) MANUFACTURER REQUIREMENTS. (a) Except as provided under par. (c),
7 beginning on January 1, 2013, a manufacturer who sells, or who has sold,
8 mercury-added lamps to households in this state, may not conduct business in this
9 state unless all of the following apply:

10 1. The manufacturer has filed an annual registration with the department in
11 the form and manner required by the department by rule.

12 2. The manufacturer has paid the fees required under sub. (8).

13 3. The manufacturer has fully implemented an approved recycling plan under
14 sub. (5) (6)

15 (b) The registration required under par. (a) 1. shall include the annual report
16 required under sub. (7).

17 (c) The requirements under this subsection do not apply to a manufacturer if
18 the manufacturer has not sold any mercury-added lamps to households in this state
19 for 10 consecutive years and does not resume such sales upon expiration of that
20 10-year period.

INSERT 5-7

1 2. Include any information required by the department about collection sites
2 established by the manufacturer and about the persons who collect and recycle the
3 manufacturer's mercury-added lamps under the plan.

4 3. Include a description of the action taken by the manufacturer to ensure that
5 collectors comply with the requirements of ch. NR 673, Wis. Adm. Code.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3096/2dn

RNK...*kgf*

Date

X Please review this redraft very closely to ensure that the changes made, based on the draft language you furnished, accurately capture your intent. Please look particularly closely at the date on which the draft provides that the registration of manufacturers first takes effect. The draft requires manufacturers to register with DNR by July 1, 2013, and to have fully implemented a recycling plan by that date. The draft no longer contains a date by which a plan must be submitted because the date will change depending on when a manufacturer first sells mercury-added lamps in this state. Also, I don't think a deadline for submission of a plan is necessary because once this proposal becomes law, a manufacturer will know that the manufacturer must submit and fully implement a recycling plan before conducting business in this state. X This puts the burden on the manufacturer to submit a plan to DNR well in advance of July 1, 2013, or the date on which the manufacturer wants to begin sales of mercury-added lamps. X Let me know if you think the draft should set deadlines for submission of recycling plans by manufacturers. Also, please let me know if the July 1, 2013, effective date is O.K. under this draft.

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite
Legislative Attorney
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3096/2dn
RNK:kjf:rs

February 23, 2010

Please review this redraft very closely to ensure that the changes made, based on the draft language you furnished, accurately capture your intent. Please look particularly closely at the date on which the draft provides that the registration of manufacturers first takes effect. The draft requires manufacturers to register with DNR by July 1, 2013, and to have fully implemented a recycling plan by that date. The draft no longer contains a date by which a plan must be submitted because the date will change depending on when a manufacturer first sells mercury-added lamps in this state. Also, I don't think a deadline for submission of a plan is necessary because once this proposal becomes law, a manufacturer will know that the manufacturer must submit and fully implement a recycling plan before conducting business in this state. This puts the burden on the manufacturer to submit a plan to DNR well in advance of July 1, 2013, or the date on which the manufacturer wants to begin sales of mercury-added lamps. Let me know if you think the draft should set deadlines for submission of recycling plans by manufacturers. Also, please let me know if the July 1, 2013, effective date is O.K. under this draft.

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite
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Parisi, Lori

From: Barry, Sarah
Sent: Monday, March 08, 2010 2:40 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-3096/2 Topic: Recycling and mercury content of compact fluorescent bulbs

Please Jacket LRB 09-3096/2 for the SENATE.