



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3096/2

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2009 SENATE BILL 629

March 18, 2010 – Introduced by Senators JAUCH, LEHMAN, MILLER, TAYLOR, ROBSON, RISSER and COWLES, cosponsored by Representatives ZEPNICK, POPE-ROBERTS, PASCH, BERCEAU, BLACK, SINICKI, DEXTER, BENEDICT, ROYS and HEBL. Referred to Committee on Environment.

1 AN ACT **to create** 20.370 (2) (hs), 25.49 (1g), 287.03 (1) (g), 287.07 (4r) 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

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-year period during which the manufacturer does not sell any household lamps in this state.

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,

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

Under this bill DNR must 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. 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 household lamps recycled by the manufacturer in the previous year and an evaluation of the effectiveness of the manufacturer's plan. The bill requires a manufacturer upon submission of a plan, and with each annual registration, to pay a recycling administration fee to DNR of \$5,000.

Beginning on July 1, 2013, the bill prohibits a retailer from selling a mercury-added lamp to a household 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.

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

2 **25.49 (1g)** The moneys received under s. 287.16 (8).

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

4 **287.03 (1) (g)** Maintain an updated list of manufacturers that have fully
5 implemented an approved recycling plan under s. 287.16 (6).

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

7 **287.07 (4r) MERCURY-ADDED LAMPS.** (a) In this subsection, “mercury-added
8 lamp” means an electric lamp to which mercury is intentionally added during the
9 manufacturing process.

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

11 1. Dispose of a mercury-added lamp in a solid waste disposal facility.

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

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

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

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

24 **287.16 Mercury-added lamp recycling.** (1) DEFINITIONS. In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **(3) PLAN SUBMISSION.** (a) To comply with sub. (2), a manufacturer whose
21 mercury-added lamps are or were sold in this state shall submit a recycling plan to
22 the department that establishes a program for recycling, or arranging for recycling,
23 mercury-added lamps derived from households. The plan shall do all of the
24 following:

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

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

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

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

14 5. Establish a procedure for the delivery of mercury-added lamps derived from
15 households, in containers approved by the department, from collection locations to
16 a recycler. The department may not approve a container under this subdivision
17 unless the department determines that the container is designed to prevent the
18 escape of mercury into the environment by volatilization or other means.

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

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

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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) 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) PLAN REVIEW.** The department shall review a plan submitted under sub. (3)
9 within 3 months of its submission to determine whether the plan complies with the
10 requirements of sub. (3). 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), 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
15 department shall disapprove the plan.

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

19 **(6) PLAN IMPLEMENTATION.** Upon approval under sub. (4) of a manufacturer's
20 plan, the manufacturer shall implement the plan. A manufacturer shall fully
21 implement its plan no more than 12 months after the department approves the plan
22 under sub. (4).

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

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

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

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

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

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

13 **(8) FEE.** Upon submission of a plan under sub. (3), and annually with a
14 registration filed under sub. (2), a manufacturer shall pay a recycling administration
15 fee of \$5,000 to the department. This subsection does not apply to a manufacturer
16 if the manufacturer has not sold any mercury-added lamps to households in this
17 state for 10 consecutive years and does not resume such sales upon expiration of that
18 10-year period.

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

23 **(10) COOPERATION.** The department shall encourage communication between
24 local governments, persons operating solid waste collection and recycling centers,

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1 and manufacturers to promote cooperation in establishing and maintaining effective
2 methods for recycling mercury-added lamps derived from households.

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

13 SECTION 6. Nonstatutory provisions.

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

19 (a) An assessment of the costs of implementing the requirements of section
20 287.16 of the statutes, as created by this act, to manufacturers, consumers, and local
21 governmental units.

22 (b) After consulting with manufacturers of mercury-added lamps derived from
23 households and with persons who receive mercury-added lamps derived from
24 households and deliver, or arrange for the delivery of, those lamps to a recycler,

1 recommendations for streamlining the recycling of mercury-added lamps derived
2 from households.

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

6 (END)