



Rep. Karen May

Filed: 4/12/2005

09400HB1628ham005

LRB094 02848 RSP 45034 a

1 AMENDMENT TO HOUSE BILL 1628

2 AMENDMENT NO. _____. Amend House Bill 1628 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Mercury Switch Removal Act.

6 Section 5. Legislative findings. The General Assembly
7 finds:

8 (1) That mercury is a persistent and toxic pollutant
9 that bioaccumulates in the environment.

10 (2) That 41 states, including Illinois, have issued
11 fish advisories that warn certain individuals to restrict
12 or avoid consuming fish from bodies of water contaminated
13 with mercury.

14 (3) That the United States Food and Drug Administration
15 has advised pregnant women and women of childbearing age
16 who may become pregnant not to eat shark, swordfish, king
17 mackerel, and tilefish due to methyl mercury
18 contamination.

19 (4) That according to estimates of the National
20 Research Council, over 600,000 babies are born annually at
21 risk for adverse neurodevelopment effects from in utero
22 exposure to methyl mercury resulting from the consumption
23 of mercury contaminated fish. These children will have to
24 struggle to keep up in school and might require remedial

1 classes or special education.

2 (5) That automobile manufacturers ended their use of
3 mercury switches in new vehicles with the model year 2003,
4 but that a significant number of mercury switches still
5 exist in U. S. motor vehicles currently on the road.

6 (6) That mercury switches in vehicles are vaporized and
7 released into the environment when scrap metal, which
8 includes shredded end-of-life vehicles, is melted in
9 furnaces to make new steel. Recent findings show that
10 current use of mercury in automobiles can cause the release
11 of as much as 10 tons of mercury into the environment each
12 year.

13 (7) That pollution prevention is more desirable than
14 controlling pollution after the fact, and that removing
15 mercury switches from vehicles before they are crushed or
16 shredded is an effective way of preventing mercury from
17 entering steel making furnaces, thereby reducing emissions
18 into the environment.

19 (8) That manufacturers of mercury-added products
20 appear to be in the best position to ensure that
21 appropriate, practical, and cost-effective systems are
22 available for end-of-life management of their products.

23 (9) That statewide mercury switch collection programs,
24 in which mercury switches are removed before discarded
25 vehicles are reused as scrap metal, are being established
26 across the country to protect human health and the
27 environment.

28 (10) That auto recyclers and dismantling facilities
29 exist because many parts and other items have resale value,
30 but that such facilities have limited ability to pass on
31 the costs of removing mercury switches because the switches
32 have no resale value. Monetary incentives are therefore
33 needed to ensure significant recycling of mercury
34 switches.

1 (11) That it is in the public interest of the residents
2 of Illinois to reduce the quantity of mercury in the
3 environment by removing switches from vehicles before they
4 are scrapped.

5 Section 10. Purpose. The purpose of this Act is to reduce
6 the quantity of mercury in the environment by removing mercury
7 switches from end-of-life vehicles and by creating a collection
8 and recovery program for mercury switches removed from
9 end-of-life vehicles in this State.

10 Section 15. Definitions. For the purposes of this Act:

11 "Agency" means the Illinois Environmental Protection
12 Agency.

13 "Board" means the Pollution Control Board.

14 "Capture rate" means removal, collection, and recovery of
15 mercury switches as a percentage of the total number of mercury
16 switches available for removal from end-of-life vehicles
17 annually.

18 "End-of-life vehicle" means any vehicle that is sold,
19 given, or otherwise conveyed to a vehicle recycler or scrap
20 recycling facility for the purpose of recycling.

21 "Manufacturer" means a person that is the last person in
22 the production or assembly process of a new motor vehicle that
23 uses mercury switches or, in the case of an imported vehicle,
24 the importer or domestic distributor of the vehicle.
25 "Manufacturer" does not include any person engaged in the
26 business of selling new motor vehicles at retail or converting
27 or modifying new motor vehicles after the production or
28 assembly process.

29 "Mercury switch" means each mercury-containing capsule,
30 commonly known as a "bullet", that is part of a convenience
31 light switch assembly or part of an anti-lock braking system
32 assembly installed in a vehicle. An anti-lock braking system

1 assembly may contain more than one mercury switch.

2 "Mercury switch collection and recovery plan" means a plan
3 for removing, collecting, and recovering mercury switches from
4 end-of-life vehicles that is prepared pursuant to Section 20 of
5 this Act.

6 "Person" means any individual, firm, association,
7 partnership, corporation, governmental entity, organization,
8 combination, or joint venture, or other legal entity, however
9 organized.

10 "Scrap recycling facility" means a fixed location where
11 machinery and equipment are used for processing and
12 manufacturing scrap metal into prepared grades and whose
13 principal product is scrap iron, scrap steel, or nonferrous
14 metallic scrap that is for sale for remelting purposes.

15 "Vehicle" means any passenger automobile or passenger car,
16 station wagon, truck, van, or sport utility vehicle with a
17 gross vehicle weight rating of less than 12,000 pounds.

18 "Vehicle recycler" means any individual or entity engaged
19 in the business of acquiring, dismantling, or destroying 6 or
20 more vehicles in a calendar year for the primary purpose of
21 resale of the parts.

22 Section 20. Removal, collection, and recovery.

23 (a) Within 180 days after the effective date of this Act,
24 every manufacturer of vehicles sold in Illinois shall,
25 individually or as part of a group, submit to the Agency for
26 review and approval a mercury switch collection and recovery
27 plan to remove, collect, and recover mercury switches in
28 end-of-life vehicles.

29 (b) The mercury switch collection and recovery plan
30 prepared and submitted pursuant to this Section shall include,
31 at a minimum, the following:

32 (1) information identifying the make, model, and year
33 of vehicles, including current or anticipated future

1 production models that may contain one or more mercury
2 switches; a description of the mercury switches; the
3 locations of these switches; and the safe and
4 environmentally sound methods for their removal from
5 end-of-life vehicles. To the extent a manufacturer is
6 uncertain as to the content of a switch installed during
7 the manufacture of a vehicle, the mercury collection and
8 recovery plan shall presume that the switch is a mercury
9 switch;

10 (2) educational materials to assist a vehicle recycler
11 or a scrap recycler in undertaking a safe and
12 environmentally sound method for the removal of the mercury
13 switches from end-of-life vehicles, including information
14 on the hazards related to, and the proper handling of,
15 mercury;

16 (3) a proposal for the method of storage or disposal of
17 the mercury switches, including the method of packaging and
18 shipping mercury switches to authorized recycling,
19 storage, or disposal facilities;

20 (4) a proposal for the storage of mercury switches
21 collected and recovered from end-of-life vehicles if
22 environmentally appropriate management technologies are
23 not available; and

24 (5) a plan for implementing and financing the mercury
25 switch collection and recovery plan in accordance with
26 subsection (e) of this Section.

27 (c) The mercury switch collection and recovery plan shall
28 be designed with the goal of achieving a mercury switch capture
29 rate of at least 90%, consistent with the principle that
30 mercury switches shall be removed, unless the mercury switch is
31 inaccessible due to significant damage to the end-of-life
32 vehicle in the area surrounding where the mercury switch is
33 located.

34 (d) To the extent practicable, a mercury switch collection

1 and recovery plan shall use the existing end-of-life vehicle
2 recycling infrastructure. If the existing end-of-life vehicle
3 recycling infrastructure is not used, the mercury switch
4 collection and recovery plan shall include the reasons for
5 establishing a separate infrastructure.

6 (e) A mercury switch collection and recovery plan must
7 provide for financing of the removal, collection, and recovery
8 system for mercury switches installed in vehicles manufactured
9 by the manufacture and its predecessors and affiliates as
10 provided in this subsection. These costs shall be borne by the
11 manufacturers of vehicles sold in the State, ensuring that
12 additional financial burdens are not placed on businesses
13 dealing with end-of-life vehicles. The manufacturers shall
14 develop a method that ensures the prompt payment to vehicle
15 recyclers and scrap recyclers. Costs shall include, but not be
16 limited to, the following:

17 (1) \$3 for each mercury switch removed in this State by
18 a vehicle recycler pursuant to Section 40 of this Act as
19 partial compensation for the labor and other costs incurred
20 by a vehicle recycler in the removal of the switch;

21 (2) \$3 for each mercury switch removed in this State by
22 a scrap recycling facility pursuant to Section 40 of this
23 Act as partial compensation for the labor and other costs
24 incurred by a scrap recycling facility in the removal of
25 the switch;

26 (3) the cost of the packaging in which to transport
27 mercury switches to recycling, storage, or disposal
28 facilities;

29 (4) the cost of shipping of mercury switches to
30 recycling, storage, or disposal facilities;

31 (5) the cost of recycling, storage, or disposal of the
32 mercury switches; and

33 (6) the cost of preparation and distribution to vehicle
34 recyclers and scrap recycling facilities of educational

1 materials required pursuant to item (2) of subsection (b)
2 of this Section.

3 (f) Within 30 days after the effective date of this Act,
4 every manufacturer of vehicles sold within this State,
5 individually or as part of a group, shall provide to vehicle
6 recyclers and scrap recycling facilities containers suitable
7 for storing mercury switches until such time that vehicle
8 recyclers and scrap recycling facilities can be reimbursed
9 pursuant to this Section.

10 (g) Manufacturers of vehicles sold within the State shall
11 provide vehicle recyclers or scrap recycling facilities with
12 reimbursement for each mercury switch in the amount established
13 pursuant to this Section regardless of when these switches were
14 removed from the vehicles, provided the vehicle recyclers or
15 scrap recycling facilities maintain the records required by
16 Section 40 of this Act.

17 Section 30. Plan approval and implementation.

18 (a) Within 120 days after receipt of a manufacturer's plan,
19 the Agency shall do either of the following:

20 (1) Determine whether the entire plan complies with
21 this Section. If the entire plan is approved, the
22 manufacturer shall begin implementation within 30 days
23 after receipt of approval. If the entire plan is rejected,
24 the Agency shall inform the manufacturer as to the reasons
25 for the rejection. The manufacturer shall have 30 days
26 thereafter to submit a new plan.

27 (2) Determine whether any part of the plan meets the
28 requirements of this Section and approve such compliant
29 parts and disapprove such others that do not comply with
30 the requirements of this Section. The manufacturer shall
31 immediately implement the approved parts and submit a
32 revised plan respecting the remaining parts within 30 days
33 after receipt of notification of the Agency's disapproval.

1 The Agency shall review a manufacturer's revised plan
2 within 30 days after receipt.

3 (b) Two hundred and forty days after the effective date of
4 this Act, the Agency shall prescribe any portion of the plan
5 that has not been approved and the manufacturers shall
6 immediately implement the parts of the plan prescribed by the
7 Agency.

8 (c) The Agency shall review the plan 3 years after the
9 original date of approval of the plan and every 3 years
10 thereafter, and shall require modifications to the plan as
11 appropriate.

12 (d) The Agency shall solicit input from representatives of
13 vehicle recyclers, scrap recycling facilities, and other
14 interested parties on the mercury switch collection and
15 recovery plan. The comments shall be received within 60 days
16 after receipt of the plan.

17 Section 40. Removal and proper management of mercury
18 switches.

19 (a) Commencing 30 days after approval or conditional
20 approval of a mercury switch collection and recovery plan
21 pursuant to Section 30 of this Act, a vehicle recycler that
22 sells, gives, or otherwise conveys ownership of an end-of-life
23 vehicle to a scrap recycling facility shall remove all mercury
24 switches identified in the approved mercury switch collection
25 and recovery plan from the end-of-life vehicle prior to
26 delivery to a scrap recycling facility, unless a mercury switch
27 is inaccessible due to significant damage to the vehicle in the
28 area surrounding the location of the mercury switch, in which
29 case the damage shall be noted on the normal business records
30 of the vehicle recycler who delivered the end-of-life vehicle
31 to the scrap recycling facility.

32 (b) Notwithstanding subsection (a) of this Section, a scrap
33 recycling facility may agree to accept an end-of-life vehicle

1 that has not been intentionally flattened, crushed, baled, or
2 shredded containing mercury switches, in which case the scrap
3 recycling facility shall be responsible for removing the
4 mercury switches identified in the mercury switch collection
5 and recovery plan approved pursuant to Section 30 before the
6 end-of-life vehicle is intentionally flattened, crushed,
7 baled, or shredded.

8 (c) A vehicle recycler or scrap recycling facility that
9 removes mercury switches pursuant to subsection (a) or (b) of
10 this Section shall maintain records documenting:

11 (1) the number of mercury switches collected;

12 (2) the number of end-of-life vehicles containing
13 mercury switches;

14 (3) the number of end-of-life vehicles processed for
15 recycling;

16 (4) the makes and models of vehicles from which mercury
17 switches were removed; and

18 (5) the number of switches collected from each make.

19 These records shall be retained for a minimum of 3 years and
20 made available for review by the Agency during normal business
21 hours upon request by the Agency.

22 (d) No person shall represent that mercury switches have
23 been removed from an end-of-life vehicle being sold, given, or
24 otherwise conveyed for recycling if that person has not removed
25 the mercury switches or arranged with another person to remove
26 the mercury switches. A mercury switch should be removed from
27 an end-of-life vehicle on site in Illinois.

28 (e) Upon removal, mercury switches shall be collected,
29 stored, transported, and otherwise handled in accordance with
30 the:

31 (1) mercury switch collection and recovery plan
32 approved pursuant to Section 30; and

33 (2) provisions of the rules concerning universal waste
34 for mercury and mercury-added products adopted by the Board

1 pursuant to Section 22.23b(e) of the Environmental
2 Protection Act.

3 (f) No scrap recycling facility or other person that
4 receives an intentionally flattened, crushed, baled, or
5 shredded end-of-life vehicle shall be deemed in violation of
6 this Act, if a mercury switch is found in the vehicle after its
7 acquisition.

8 Section 55. General compliance with other provisions.
9 Except as expressly provided in this Act, compliance with this
10 Act shall not exempt a person from compliance with any other
11 law.

12 Section 60. Rulemaking. The Agency may adopt rules
13 concerning this Act.

14 Section 70. Reporting. One year after the implementation of
15 the removal, replacement, collection, and recovery system, and
16 annually thereafter, a manufacturer subject to Section 20 of
17 this Act shall, individually or as part of a group, report to
18 the Agency concerning the performance of the mercury switch
19 collection and recovery plan. The report shall include, but not
20 be limited to, the following:

21 (1) a detailed description and documentation of the
22 capture rate achieved, consistent with the principle that
23 mercury switches shall be recovered, unless the mercury
24 switch is inaccessible due to significant damage to the
25 end-of-life vehicle in the area surrounding where the
26 mercury switch is located;

27 (2) a plan to implement additional or alternative
28 actions, if necessary, to improve the capture rate;

29 (3) the number of switches collected, the number of
30 end-of-life vehicles containing mercury switches, the
31 number of end-of-life vehicles processed for recycling,

1 and a description of how the mercury switches were managed;
2 and

3 (4) a description of the amounts paid to cover the
4 costs of implementing the mercury switch collection and
5 recovery plan.

6 Section 75. Penalties. Any person who violates any of the
7 provisions of this Act or its rules shall be liable and subject
8 to a civil penalty not to exceed \$1,000 per day of violation. A
9 second offense under this Act shall subject the violator to a
10 civil penalty of not more than \$10,000 for the violation and an
11 additional civil penalty of not more than \$1,000 for each day
12 during which the violation continues.

13 Section 80. Universal waste. The Board shall modify its
14 rules governing universal hazardous waste as appropriate to
15 promote the collection, transport, recovery, and proper
16 management of mercury switches. Any rules adopted by the Board
17 under this Act shall not be inconsistent with federal law.

18 Section 90. Repealer. This Act is repealed 10 years after
19 its effective date."