



Sen. James F. Clayborne Jr.

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LRB094 04721 RSP 47209 a

1 AMENDMENT TO SENATE BILL 1028

2 AMENDMENT NO. _____. Amend Senate Bill 1028 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 that
9 bioaccumulates in the environment.

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

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

17 (4) That mercury switches can be vaporized and released
18 into the environment if scrap metal, which includes shredded
19 end-of-life vehicles, is melted in furnaces to make new steel
20 and these switches are not properly removed by vehicle and
21 steel recyclers.

22 (5) That removing mercury switches from vehicles before
23 they are crushed or shredded is an effective way of preventing
24 vehicle switch mercury from entering steel making furnaces,

1 thereby reducing emissions into the environment.

2 (6) That statewide mercury switch collection programs, in
3 which mercury switches are removed before end-of-life vehicles
4 are reused as scrap metal, are being considered as one method
5 of reducing steel making furnace mercury emissions.

6 (7) That it is in the public interest of the residents of
7 Illinois to reduce the quantity of mercury in the environment
8 by removing switches from vehicles before they are scrapped.

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

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

15 "Agency" means the Illinois Environmental Protection
16 Agency.

17 "Board" means the Pollution Control Board.

18 "Capture rate" means the annual number of mercury switches
19 removed, collected, and recovered, calculated as a percentage
20 of the total number of mercury switches reported in Section 40.

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

24 "Manufacturer" means a person that is the last person in
25 the production or assembly process of a new motor vehicle that
26 uses mercury switches or, in the case of an imported vehicle,
27 the importer or domestic distributor of the vehicle.

28 "Manufacturer" does not include any person engaged in the
29 business of selling new motor vehicles at retail or converting
30 or modifying new motor vehicles after the production or
31 assembly process.

32 "Mercury switch" means a mercury-containing capsule,

1 commonly known as a "bullet", that is part of a convenience
2 light switch assembly installed by a manufacturer.

3 "Person" means any individual, firm, association,
4 partnership, corporation, governmental entity, organization,
5 combination, joint venture, or other legal entity, however
6 organized.

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

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

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

20 Section 20. Mercury switch removal program.

21 (a) Ninety days after adoption of the rule required in
22 Section 60, a mercury switch removal program shall be
23 implemented that provides the following:

24 (1) Information provided by manufacturers identifying
25 vehicles that may contain one or more mercury switches; a
26 description of the mercury switches; the locations of these
27 switches; and the safe and environmentally sound methods
28 for the removal of mercury switches from end-of-life
29 vehicles.

30 (2) Educational materials provided by manufacturers to
31 assist a vehicle recycler or a scrap recycling facility in
32 undertaking a safe and environmentally sound method for the
33 removal of mercury switches from end-of-life vehicles,

1 including information on the hazards related to, and the
2 proper handling of, mercury.

3 (3) The removal of mercury switches from end-of-life
4 vehicles by vehicle recyclers and scrap recycling
5 facilities.

6 (4) Procedures established by the Agency to compensate
7 vehicle recyclers and scrap recycling facilities for the
8 removal of mercury switches from end-of-life vehicles.

9 (5) Methods provided by manufacturers for the storage
10 or disposal of the mercury switches, including the method
11 of packaging and shipping mercury switches to authorized
12 recycling, storage or disposal facilities; and

13 (6) Methods provided by the manufacturers for the
14 storage of mercury switches collected and recovered from
15 end-of-life vehicles if environmentally appropriate
16 management technologies are not available.

17 (b) The mercury switch removal program shall be designed
18 with the goal of achieving a mercury switch capture rate of at
19 least 90%, consistent with the principle that mercury switches
20 shall be removed, unless the mercury switch is inaccessible due
21 to significant damage to the end-of-life vehicle in which the
22 mercury switch is located.

23 (c) To the extent practical, a mercury switch recovery
24 program shall use the existing end-of-life vehicle recycling
25 infrastructure. If the existing end-of-life vehicle recycling
26 infrastructure is not used, the mercury switch removal program
27 shall include the reasons for establishing a separate
28 infrastructure.

29 Section 25. Program costs borne by manufacturers. The
30 following program costs must be borne by a manufacturer of
31 vehicles sold in Illinois, either individually or as part of a
32 group of manufacturers:

33 (a) the cost of preparation of educational materials

1 and the distribution of these materials to vehicle
2 recyclers and scrap recycling facilities;

3 (b) the cost of containers suitable for the safe
4 storage of mercury switches by vehicle recyclers and scrap
5 recycling facilities, and the cost of distributing the
6 containers to vehicle recyclers and scrap recycling
7 facilities;

8 (c) the cost of collecting, packaging, and shipping
9 mercury switches to recycling, storage, or disposal
10 facilities;

11 (d) the cost of recycling, storage, or disposal of
12 mercury switches that have been removed from vehicles in
13 Illinois;

14 (e) \$3 for each mercury switch removed in this State by
15 a vehicle recycler pursuant to Section 30 of this Act as
16 partial compensation for the labor and other costs incurred
17 by a vehicle recycler in the removal of the switch. Subject
18 to appropriation from the Solid Waste Management Fund, the
19 Agency shall reimburse vehicle manufacturers \$3 for each
20 mercury switch removed; and

21 (f) \$3 for each mercury switch removed in this State by
22 a scrap recycling facility pursuant to Section 30 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. Subject to appropriation from the Solid Waste
26 Management Fund, the Agency shall reimburse vehicle
27 manufacturers \$3 for each mercury switch removed.

28 Section 30. Removal and management of mercury switches;
29 compensation.

30 (a) In accordance with educational materials received
31 under this Act, a vehicle recycler shall remove all mercury
32 switches (unless the switch is inaccessible due to significant
33 damage to the vehicle) from the vehicle before the vehicle

1 recycler:

2 (1) crushes, flattens, or bales an end-of-life
3 vehicle; or

4 (2) sells, gives, or otherwise conveys ownership of an
5 end-of-life vehicle to:

6 (A) a scrap recycling facility for recycling; or

7 (B) any other person for purposes of crushing or
8 other similar processing.

9 (b) If damage to the vehicle makes a mercury switch
10 inaccessible for removal, the vehicle recycler shall note the
11 location of both the damage and the mercury switch on the
12 normal business records of the vehicle recycler. Except as
13 provided by subsection (c), a vehicle recycler may not deliver
14 a vehicle that contains a mercury switch to a scrap recycling
15 facility.

16 (c) A scrap recycling facility may accept an end-of-life
17 vehicle that contains a mercury switch only if the facility
18 agrees to remove the remaining mercury switch before the
19 vehicle is flattened, crushed, shredded, or baled.

20 Section 35. Prohibition on importation of mercury switches
21 into Illinois. It is a violation of this Act for a vehicle
22 recycler or a scrap recycling facility to bring a mercury
23 switch into Illinois that was removed from a motor vehicle
24 outside of Illinois for the purpose of receiving compensation
25 from the Agency under Section 25.

26 Section 40. Vehicle recycler and scrap recycling facility
27 records.

28 (a) Consistent with protection of Confidential Business
29 Information, a vehicle recycler or scrap recycling facility
30 that removes mercury switches under Section 30 shall maintain
31 records documenting:

32 (1) the number of mercury switches collected;

1 (2) the total number of end-of-life vehicles processed
2 for recycling;

3 (b) The records required under this Section must be
4 submitted to the Agency on an annual basis, and shall be used
5 by the Agency to compensate vehicle recyclers and scrap
6 recycling facilities pursuant to Section 25.

7 Section 45. Reports. On or before March 31 of each year,
8 the Agency shall publish a report that includes:

9 (a) documentation of the capture rate achieved during
10 the previous calendar year consistent with the principle
11 that a mercury switch should be recovered unless damage to
12 the vehicle makes the switch inaccessible, and considering
13 estimates that two to three years will be required to
14 maximize collection activities;

15 (b) a description of additional or alternative actions
16 that may be implemented to improve the mercury switch
17 recovery program and the implementation of the program;

18 (c) the number of mercury switches collected, the
19 number of end-of-life vehicles containing mercury
20 switches, and the number of end-of-life vehicles processed
21 for recycling; and

22 (d) a description of how the mercury switches collected
23 were managed.

24 Section 50. Rulemaking. The Agency may adopt rules
25 concerning this Act.

26 Section 60. Universal waste. The Board shall modify its
27 rules governing universal hazardous waste as appropriate to
28 promote the collection, transport, recovery, and proper
29 management of mercury switches. Any rules adopted by the Board
30 under this Act shall not be inconsistent with federal law.

1 Section 65. Repealer. This Act is repealed on the earlier
2 of (i) January 1, 2016; or (ii) an Agency determination that
3 end-of-life vehicle mercury switches no longer pose a
4 significant threat to the environment or to public health

5 Section 70. The Environmental Protection Act is amended by
6 changing Section 22.15 as follows:

7 (415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)

8 Sec. 22.15. Solid Waste Management Fund; fees.

9 (a) There is hereby created within the State Treasury a
10 special fund to be known as the "Solid Waste Management Fund",
11 to be constituted from the fees collected by the State pursuant
12 to this Section and from repayments of loans made from the Fund
13 for solid waste projects. Moneys received by the Department of
14 Commerce and Economic Opportunity ~~Community Affairs~~ in
15 repayment of loans made pursuant to the Illinois Solid Waste
16 Management Act shall be deposited into the Solid Waste
17 Management Revolving Loan Fund.

18 (b) The Agency shall assess and collect a fee in the amount
19 set forth herein from the owner or operator of each sanitary
20 landfill permitted or required to be permitted by the Agency to
21 dispose of solid waste if the sanitary landfill is located off
22 the site where such waste was produced and if such sanitary
23 landfill is owned, controlled, and operated by a person other
24 than the generator of such waste. The Agency shall deposit all
25 fees collected into the Solid Waste Management Fund. If a site
26 is contiguous to one or more landfills owned or operated by the
27 same person, the volumes permanently disposed of by each
28 landfill shall be combined for purposes of determining the fee
29 under this subsection.

30 (1) If more than 150,000 cubic yards of non-hazardous
31 solid waste is permanently disposed of at a site in a
32 calendar year, the owner or operator shall either pay a fee

1 of 95 cents per cubic yard or, alternatively, the owner or
2 operator may weigh the quantity of the solid waste
3 permanently disposed of with a device for which
4 certification has been obtained under the Weights and
5 Measures Act and pay a fee of \$2.00 per ton of solid waste
6 permanently disposed of. In no case shall the fee collected
7 or paid by the owner or operator under this paragraph
8 exceed \$1.55 per cubic yard or \$3.27 per ton.

9 (2) If more than 100,000 cubic yards but not more than
10 150,000 cubic yards of non-hazardous waste is permanently
11 disposed of at a site in a calendar year, the owner or
12 operator shall pay a fee of \$52,630.

13 (3) If more than 50,000 cubic yards but not more than
14 100,000 cubic yards of non-hazardous solid waste is
15 permanently disposed of at a site in a calendar year, the
16 owner or operator shall pay a fee of \$23,790.

17 (4) If more than 10,000 cubic yards but not more than
18 50,000 cubic yards of non-hazardous solid waste is
19 permanently disposed of at a site in a calendar year, the
20 owner or operator shall pay a fee of \$7,260.

21 (5) If not more than 10,000 cubic yards of
22 non-hazardous solid waste is permanently disposed of at a
23 site in a calendar year, the owner or operator shall pay a
24 fee of \$1050.

25 (c) (Blank.)

26 (d) The Agency shall establish rules relating to the
27 collection of the fees authorized by this Section. Such rules
28 shall include, but not be limited to:

29 (1) necessary records identifying the quantities of
30 solid waste received or disposed;

31 (2) the form and submission of reports to accompany the
32 payment of fees to the Agency;

33 (3) the time and manner of payment of fees to the
34 Agency, which payments shall not be more often than

1 quarterly; and

2 (4) procedures setting forth criteria establishing
3 when an owner or operator may measure by weight or volume
4 during any given quarter or other fee payment period.

5 (e) Pursuant to appropriation, all monies in the Solid
6 Waste Management Fund shall be used by the Agency and the
7 Department of Commerce and Economic Opportunity ~~Community~~
8 ~~Affairs~~ for the purposes set forth in this Section and in the
9 Illinois Solid Waste Management Act, including for the costs of
10 fee collection and administration. The Agency shall also use
11 Fund moneys, pursuant to appropriation, to reimburse vehicle
12 manufacturers for their payments to vehicle recyclers and scrap
13 recycling facilities for the removal of mercury switches from
14 end-of-life vehicles pursuant to the Mercury Switch Removal
15 Act.

16 (f) The Agency is authorized to enter into such agreements
17 and to promulgate such rules as are necessary to carry out its
18 duties under this Section and the Illinois Solid Waste
19 Management Act.

20 (g) On the first day of January, April, July, and October
21 of each year, beginning on July 1, 1996, the State Comptroller
22 and Treasurer shall transfer \$500,000 from the Solid Waste
23 Management Fund to the Hazardous Waste Fund. Moneys transferred
24 under this subsection (g) shall be used only for the purposes
25 set forth in item (1) of subsection (d) of Section 22.2.

26 (h) The Agency is authorized to provide financial
27 assistance to units of local government for the performance of
28 inspecting, investigating and enforcement activities pursuant
29 to Section 4(r) at nonhazardous solid waste disposal sites.

30 (i) The Agency is authorized to support the operations of
31 an industrial materials exchange service, and to conduct
32 household waste collection and disposal programs.

33 (j) A unit of local government, as defined in the Local
34 Solid Waste Disposal Act, in which a solid waste disposal

1 facility is located may establish a fee, tax, or surcharge with
2 regard to the permanent disposal of solid waste. All fees,
3 taxes, and surcharges collected under this subsection shall be
4 utilized for solid waste management purposes, including
5 long-term monitoring and maintenance of landfills, planning,
6 implementation, inspection, enforcement and other activities
7 consistent with the Solid Waste Management Act and the Local
8 Solid Waste Disposal Act, or for any other environment-related
9 purpose, including but not limited to an environment-related
10 public works project, but not for the construction of a new
11 pollution control facility other than a household hazardous
12 waste facility. However, the total fee, tax or surcharge
13 imposed by all units of local government under this subsection
14 (j) upon the solid waste disposal facility shall not exceed:

15 (1) 60¢ per cubic yard if more than 150,000 cubic yards
16 of non-hazardous solid waste is permanently disposed of at
17 the site in a calendar year, unless the owner or operator
18 weighs the quantity of the solid waste received with a
19 device for which certification has been obtained under the
20 Weights and Measures Act, in which case the fee shall not
21 exceed \$1.27 per ton of solid waste permanently disposed
22 of.

23 (2) \$33,350 if more than 100,000 cubic yards, but not
24 more than 150,000 cubic yards, of non-hazardous waste is
25 permanently disposed of at the site in a calendar year.

26 (3) \$15,500 if more than 50,000 cubic yards, but not
27 more than 100,000 cubic yards, of non-hazardous solid waste
28 is permanently disposed of at the site in a calendar year.

29 (4) \$4,650 if more than 10,000 cubic yards, but not
30 more than 50,000 cubic yards, of non-hazardous solid waste
31 is permanently disposed of at the site in a calendar year.

32 (5) \$650 if not more than 10,000 cubic yards of
33 non-hazardous solid waste is permanently disposed of at the
34 site in a calendar year.

1 The corporate authorities of the unit of local government
2 may use proceeds from the fee, tax, or surcharge to reimburse a
3 highway commissioner whose road district lies wholly or
4 partially within the corporate limits of the unit of local
5 government for expenses incurred in the removal of
6 nonhazardous, nonfluid municipal waste that has been dumped on
7 public property in violation of a State law or local ordinance.

8 A county or Municipal Joint Action Agency that imposes a
9 fee, tax, or surcharge under this subsection may use the
10 proceeds thereof to reimburse a municipality that lies wholly
11 or partially within its boundaries for expenses incurred in the
12 removal of nonhazardous, nonfluid municipal waste that has been
13 dumped on public property in violation of a State law or local
14 ordinance.

15 If the fees are to be used to conduct a local sanitary
16 landfill inspection or enforcement program, the unit of local
17 government must enter into a written delegation agreement with
18 the Agency pursuant to subsection (r) of Section 4. The unit of
19 local government and the Agency shall enter into such a written
20 delegation agreement within 60 days after the establishment of
21 such fees. At least annually, the Agency shall conduct an audit
22 of the expenditures made by units of local government from the
23 funds granted by the Agency to the units of local government
24 for purposes of local sanitary landfill inspection and
25 enforcement programs, to ensure that the funds have been
26 expended for the prescribed purposes under the grant.

27 The fees, taxes or surcharges collected under this
28 subsection (j) shall be placed by the unit of local government
29 in a separate fund, and the interest received on the moneys in
30 the fund shall be credited to the fund. The monies in the fund
31 may be accumulated over a period of years to be expended in
32 accordance with this subsection.

33 A unit of local government, as defined in the Local Solid
34 Waste Disposal Act, shall prepare and distribute to the Agency,

1 in April of each year, a report that details spending plans for
2 monies collected in accordance with this subsection. The report
3 will at a minimum include the following:

4 (1) The total monies collected pursuant to this
5 subsection.

6 (2) The most current balance of monies collected
7 pursuant to this subsection.

8 (3) An itemized accounting of all monies expended for
9 the previous year pursuant to this subsection.

10 (4) An estimation of monies to be collected for the
11 following 3 years pursuant to this subsection.

12 (5) A narrative detailing the general direction and
13 scope of future expenditures for one, 2 and 3 years.

14 The exemptions granted under Sections 22.16 and 22.16a, and
15 under subsections (c) and (k) of this Section, shall be
16 applicable to any fee, tax or surcharge imposed under this
17 subsection (j); except that the fee, tax or surcharge
18 authorized to be imposed under this subsection (j) may be made
19 applicable by a unit of local government to the permanent
20 disposal of solid waste after December 31, 1986, under any
21 contract lawfully executed before June 1, 1986 under which more
22 than 150,000 cubic yards (or 50,000 tons) of solid waste is to
23 be permanently disposed of, even though the waste is exempt
24 from the fee imposed by the State under subsection (b) of this
25 Section pursuant to an exemption granted under Section 22.16.

26 (k) In accordance with the findings and purposes of the
27 Illinois Solid Waste Management Act, beginning January 1, 1989
28 the fee under subsection (b) and the fee, tax or surcharge
29 under subsection (j) shall not apply to:

30 (1) Waste which is hazardous waste; or

31 (2) Waste which is pollution control waste; or

32 (3) Waste from recycling, reclamation or reuse
33 processes which have been approved by the Agency as being
34 designed to remove any contaminant from wastes so as to

1 render such wastes reusable, provided that the process
2 renders at least 50% of the waste reusable; or

3 (4) Non-hazardous solid waste that is received at a
4 sanitary landfill and composted or recycled through a
5 process permitted by the Agency; or

6 (5) Any landfill which is permitted by the Agency to
7 receive only demolition or construction debris or
8 landscape waste.

9 (Source: P.A. 92-574, eff. 6-26-02; 93-32, eff. 7-1-03; revised
10 12-6-03.)".