

HOUSE No. 04207

The Commonwealth of Massachusetts

HOUSE, June 27, 2012

XXXXX

For the committee,

ANNE M. GOBI.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Twelve
—————

An Act relative to increasing the recycling of mercury-added lamps.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section (b) of section 6I of chapter 21H of the General Laws, as so appearing in the
2 2010 Official Edition, is amended by adding after the first paragraph the following paragraph:-

3 As part of such education program the department shall develop signage of uniform message,
4 appearance and that may be varied by size, on the prohibition of disposing of mercury-added
5 products and other various hazardous waste products in the trash as solid waste; and shall work
6 with:

7 (1) Municipalities, to require that such signage be displayed conspicuously on: (i) municipal
8 residential trash bags used in connection with its solid waste program, (ii) municipal supplied
9 residential trash containers and curb-side recycling bins, (iii) public trash containers, (iv)
10 municipal owned waste receptacles, recycling bins and dumpsters, (v) trash hauling equipment
11 used for municipal trash collection services, and (vi) municipal solid waste and recycling
12 facilities;

13 (2) State agencies, departments and quasi-public agencies, to require that such signage be
14 displayed conspicuously on trash containers, recycling bins and dumpsters located on state
15 property; and,

16 (3) Waste haulers and solid waste facilities, to require that such signage be displayed
17 conspicuously on dumpsters, trash hauling equipment containers and at facilities.

18 SECTION 2. Said section 6I of chapter 21H, as so appearing, is hereby further amended by
19 inserting after subsection (e), the following subsection:-

20 (f) Respective inspectors of buildings shall require the prior removal of all mercury-added lamps
21 located in areas of a structure or building to be demolished under an issued permit, provided
22 such lamp can be accessed safely for removal. All such removed lamps to be discarded shall be
23 properly disposed in accordance with applicable law and regulation.

24 SECTION 3. Section 6J of Chapter of 21H of the General Laws is hereby amended by striking
25 out subsection (d), as appearing in the 2010 Official Edition, and inserting the following:-

26 (d) (1) A manufacturer of mercury-added lamps shall satisfy the requirements of this section if,
27 individually or collectively as a group with other such manufacturers, it implements and
28 maintains a collection and recycling program in accordance with this subsection. Each
29 manufacturer shall be financially responsible for all costs and expenses of its collection and
30 recycling program.

31 A manufacturer's collection and recycling program shall include:

32 (A) Transportation and recycling of discarded mercury-added lamps from all participating
33 municipal mercury-added lamp collection site locations in the Commonwealth. The

34 manufacturer shall pickup such disposed lamps at participating site locations during the normal
35 operating hours of the municipality and on a periodic basis as required by regulation of the
36 department. A manufacturer may impose reasonable requirements to ready the lamps for pickup;
37 provided, the manufacturer shall, without charge, supply the municipality with any containers
38 required for the transportation of the lamps, which containers shall be of bulk type. If the
39 manufacturer establishes a process for the bulk pick up and transportation by common or
40 contract carrier the manufacturer shall pre-arranged for the transportation charges to be paid to
41 the carrier.

42 Collection program requirements for participating municipal collection sites shall be approved
43 by the department. Notwithstanding, a manufacturer may terminate a municipal collection
44 program participant for repeated failure to follow program requirements and guidelines, subject
45 to written approval by the department.

46 A participating municipal collection site may collect for recycling under such program, mercury-
47 added lamps discarded only by the municipality, resident households and local small businesses
48 and organizations; provided, such businesses or organizations shall be limited to the disposal of
49 no more than 7 mercury-added lamps per month. No charge shall be imposed by a participating
50 municipality to others, who dispose of mercury-added lamps at its collection site; except, in such
51 situation where a collection site is located at a municipal solid waste facility or hazardous waste
52 event, the municipality may charge a general fee to access the facility or event.

53 No municipality shall be required to participate in a manufacturer's mercury-added lamp
54 collection and recycling program or to accept from any person such lamps for proper disposal
55 and recycling under this subsection.

56 (B) Written informational educational materials are provided at participating collection sites and
57 the manufacturer's sales vendor locations that sell new mercury-added lamps, regarding: (i) the
58 economic and environmental benefits of mercury-added lamps, (ii) the harm mercury can cause
59 to the environment and to human health and (iii) the proper disposal and recycling methods for
60 mercury-added lamps.

61 (C) Educational information is provided by public advertisements on the proper disposal and
62 recycling of mercury-added lamps in local media such as newspaper, radio and internet.

63 (D) Information is provided on the manufacturer's internet web-site, on the: (i) proper disposal
64 and recycling of mercury-added lamps, (ii) procedures for the handling and disposal of broken
65 mercury-added lamps, (iii) identity and addresses of all participating municipal collection site
66 locations in the program; (iv) requirements and guidelines for the proper handling and managing
67 of mercury-added lamps for participating municipal collection sites; and, (v) other information as
68 required to be contained in educational materials under paragraph (B).

69 (E) Information provided under paragraphs (B) and (C) shall to the extent practicable, include a
70 toll-free telephone number and website address that the public may access to obtain additional
71 information where and how to return, recycle or dispose of mercury-added lamps. All such visual
72 and audible information shall include information on the meaning of the chemical symbol "Hg"
73 and any other commonly used terms and symbols to assist in identifying mercury-added lamp
74 products.

75 (F) The management, collection, disposal and recycling of mercury-added lamps complies with
76 all applicable, federal, state and local laws and regulations.

77 (2) The department by regulation and after a public hearing shall by July 1, 2013, establish
78 annual target goals for the collection and recycling of mercury-added lamps for not less than a 5
79 year period. Every 2 years after said date, the department shall, (i) review all such reported
80 manufacturer collection information against the recycling goal established for such years; and if
81 warranted, may after public hearing adjust by regulation the annual recycling target goals, and
82 (ii) if necessary, after public hearing establish by regulation successive annual target goals for
83 not less than a 5 year period. All established annual recycling target goals and manufacturer
84 annual recycling reports as required under paragraph (3) shall be posted on the department's
85 public internet web-site.

86 (3) Each such manufacturer of mercury-added lamps individually or collectively as a group,
87 shall, annually by the third Wednesday in February, make a report to the department on the total
88 number of mercury-added lamps collected for recycling for the prior calendar year period. Such
89 report shall be filed in a form and contain the information as prescribed by the department.

90 (4) No manufacturer shall sell, offer to sell, or distribute a mercury-added lamp in the
91 Commonwealth, on or after August 1, 2013, unless such manufacturer implements and maintains
92 a mercury added lamp collection and recycling program under the provisions of this section.
93 After the effective date of this act, the implementation of such program shall not be required
94 until August 1, 2013; notwithstanding, the provisions of subparagraph (a). A manufacturer that
95 seeks to implement a collection and recycling program under this subsection by August 1, 2013,
96 shall submit its proposed plan as provided under the provisions of paragraph (5).

97 (5) On or before March 1, 2013, each such manufacturer shall submit its collection and recycling
98 plan for mercury-added lamps for the initial 3 year period to the department; and, thereafter,

99 shall submit to the department an up-dated plan at intervals as set by regulation. All plans shall
100 be in a form and contain the information as prescribed by the department and shall comply with
101 the provisions of this subsection and any applicable regulations. Each such plan submitted shall
102 be subject to approval by the department. Within 60 days of receipt of a plan, the department
103 shall review such plan and make a determination. If a plan is rejected or approved in part, the
104 manufacturer shall, within 30 days after receipt of the determination, submit to the department a
105 modified plan to comply with the requirements of this subsection. In the event the modified plan
106 is not in full compliance with the requirements, the department within 30 days of its receipt shall
107 issue to the manufacturer a notice of non-compliance that effective on August 1, 2013, the
108 manufacturer shall be subject to the prohibition of subsection (a), until a complying plan is filed
109 and approved by the department. By regulation, the department shall adopt procedures of a
110 similar nature for the submission for approval of manufacturer plans to the department after
111 March 1, 2013. Each manufacturer mercury-added lamp collection and recycling program
112 established under this subsection, shall be implemented and maintained in accordance with its
113 plan as approved by the department. Notwithstanding, the department after such approval may
114 require modification of a manufacturer's plan if necessary to comply with applicable federal and
115 state laws and regulations.

116 (6) The department shall promulgate reasonable regulations related to the manufacturer
117 requirements under this subsection. When the goal of this subsection is achieved or when
118 otherwise necessary, the commissioner of the department of environmental protection shall have
119 the authority to waive any requirement under this subsection of a mercury-added lamp
120 manufacturer.

121 (7) A manufacturer that ceases to sell or distribute mercury-added lamps in the Commonwealth,
122 shall for a period of 6 years after such event, continue to maintain a collection and recycling
123 program pursuant to the provisions of this subsection, subject to the provisions of paragraph (6).

124 SECTION 4. Said section 6J of chapter of 21H is further amended by striking out subsection (e),
125 as so appearing, and inserting the following:-

126 (e) Of the fines, penalties and forfeitures collected pursuant to section 8 of chapter 21H and
127 section 10 of chapter 21C, which portion of the collected amount relates directly to mercury-
128 added lamps: (i) 50 per cent shall be deposited into an expendable trust, in accordance with
129 section 6 of chapter 6A and any applicable regulations, to be expended for the purpose of
130 enforcement of the provisions under section 5 of chapter 21C and section 6J of 21H, as related to
131 mercury-added lamps and to provide grants to municipalities related to the collection and
132 recycling of mercury added lamps, provided that the initial \$400,000 annually, that is received
133 for deposit into trust, shall be expended equally and, any other amounts so deposited during such
134 annual period shall be expended only for municipal grants; and, (ii) such other 50 per cent shall
135 be paid into the general fund. In addition, the department shall deposit any amounts received
136 from manufacturers as provided under former subsection (e) of section 6J under this chapter as
137 inserted by section 7 of chapter 190 of the acts of 2006, into the trust, notwithstanding any other
138 law or regulation to the contrary.

139 SECTION 5. Subsection (c) of section 6K of said chapter 21H of the General Laws, as so
140 appearing , is hereby amended by adding after the first paragraph the following paragraph:-

141 In addition to any requirement under this subsection, a person who is in the business of selling
142 or distributing mercury- added lamps having a physical location in the Commonwealth, shall

143 post conspicuous signage on the premises where such lamps are displayed and offered for sale or
144 if there is no such display, near the location where customer sales are customarily transacted, to
145 alert customers of the required proper disposal and recycling requirements for mercury-added
146 lamps, and with the identity and address of any local collection site where such lamps will be
147 accepted. Templates of general signage shall be prepared by the department and posted on its
148 public internet web-site, in a form that users may at no cost access and print for use.

149 SECTION 6. Sections 1 and 2, shall take effect on January 1, 2013.

150 SECTION 7. Section 3, of this act shall take effect on August 1, 2012; and, the provisions of
151 such section shall not be retroactively applied with respect to an annual recycling rate for a date
152 listed specifically in statute before this effective date.

153 SECTION 8. Section 4, of this act shall take effect on August 1, 2012; and, the provisions of
154 such section shall not be retroactively applied to affect the requirement, obligation or
155 enforceability, to pay any amount or assessment that is based on the non-compliance of an
156 annual recycling rate for a date listed specifically in statute before this effective date.

157 SECTION 9. Section 5, shall take effect on August 1, 2013.