

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1110**

Citations Affected: IC 4-23-5.5-14; IC 13-11-2; IC 13-14-12-1; IC 13-20-17.7; IC 13-20-22-2.

Synopsis: Environmental law. CONFERENCE COMMITTEE REPORT FOR EHB 1110. Requires manufacturers of motor vehicles offered for sale in Indiana to develop and implement a plan to remove, collect, recover, and recycle or dispose of certain mercury switches from end of life vehicles. Exempts from mercury switch plan development requirements motor vehicle manufacturers that have never installed mercury switches in their motor vehicles. Requires the Indiana department of environmental management (IDEM) to allow a public comment period on a plan of at least 30 days, and to act on the plan within 120 days. Requires motor vehicle recyclers to remove all mercury switches from end of life vehicles. Provides that motor vehicle recyclers include automotive salvage recyclers, automobile scrapyards, hulk crushers, scrap metal processors, and vehicle disposal facilities. Provides that mercury switch removal requirements take effect 30 days after IDEM approves a plan and expire the earlier of July 1, 2016, or the date a national mercury switch recovery program takes effect. Provides for a payment out of the solid waste management fund (SWMF) to a motor vehicle recycler for each mercury switch removed: (1) in an amount of at least \$1 and not more than \$5 as determined by the IDEM commissioner; and (2) to the extent that the commissioner makes money available from the SWMF for that purpose. Allows money to be redirected to the SWMF for that purpose from the Indiana recycling promotion and assistance fund and the environmental management special fund (EMSF). Allows any person to contribute or assign assets to the solid waste management fund to be used by IDEM to make payments for mercury switches. Requires IDEM to report information on mercury switch removal to the legislative council and the environmental quality service council. **(This conference committee report: (1) provides that the mercury switch removal program expires on the earlier of July 1, 2016, or the date a national mercury switch recovery program takes effect; (2) allows any person to contribute or assign assets to the solid waste management fund to be used by IDEM to make payments for mercury switches; (3) deletes the provision to establish the supplemental environmental project credit bank; (4) deletes the provision that permits the commissioner to direct to the SWMF only money in the EMSF derived from penalties imposed on steel producers; and (5) specifies that the SWMF is authorized to receive money that the commissioner directs to that fund from the EMSF.)**

Effective: July 1, 2006.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1110 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 4-23-5.5-14 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The Indiana
4 recycling promotion and assistance fund is established. The purpose of
5 the fund is to promote and assist recycling throughout Indiana by
6 focusing economic development efforts on businesses and projects
7 involving recycling. The fund shall be administered by the board.
8 (b) Sources of money for the fund consist of the following:
9 (1) Appropriations from the general assembly.
10 (2) Repayment proceeds of loans made from the fund.
11 (3) Gifts and donations.
12 (4) Money from the solid waste management fund.
13 (c) Money remaining in the fund at the end of a state fiscal year does
14 not revert to the state general fund.
15 (d) The board may use money in the fund to make loans to assist:
16 (1) persons in establishing new recycling businesses;
17 (2) in the expansion of existing recycling businesses; and
18 (3) manufacturers in retrofitting equipment necessary to reuse or
19 recycle secondary materials.
20 (e) The board shall establish loan:
21 (1) amounts;
22 (2) terms; and

1 (3) interest rates.

2 (f) The board may use money in the fund to make grants for research
3 and development projects involving recycling. The board shall establish
4 amounts for grants.

5 (g) A person, business, or manufacturer that wants a grant or loan
6 from the fund must file an application with the board.

7 (h) The board shall establish criteria for awarding grants and loans
8 under this section.

9 (i) **The board may transfer money in the fund to the state solid
10 waste management fund established by IC 13-20-22-2 for use by the
11 department of environmental management to make payments
12 under IC 13-20-17.7-6.**

13 SECTION 2. IC 13-11-2-16.3 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2006]: Sec. 16.3. (a) "Automotive salvage
16 recycler", for purposes of this chapter, means a business that:

- 17 (1) acquires damaged, inoperative, discarded, abandoned, or
18 salvage motor vehicles, or their remains, as stock-in-trade;
19 (2) dismantles and processes the vehicles or remains for the
20 reclamation and sale of reusable components and parts; and
21 (3) disposes of recyclable materials to a scrap metal processor
22 or other appropriate facility.

23 (b) **This section expires on the date IC 13-20-17.7 expires under
24 IC 13-20-17.7-9.**

25 SECTION 3. IC 13-11-2-16.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2006]: Sec. 16.5. (a) "Automobile
28 scrapyards", for purposes of this chapter, means a business
29 organized for any of the following purposes:

- 30 (1) Processing scrap metal.
31 (2) Wrecking automobiles.
32 (3) Operating a junkyard.

33 (b) **This section expires on the date IC 13-20-17.7 expires under
34 IC 13-20-17.7-9.**

35 SECTION 4. IC 13-11-2-66.9 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2006]: Sec. 66.9. (a) "End of life vehicle", for
38 purposes of IC 13-20-17.7, means a motor vehicle that is:

- 39 (1) sold; or
40 (2) otherwise conveyed;

41 **to a motor vehicle recycler for the purpose of recycling.**

42 (b) **This section expires on the date IC 13-20-17.7 expires under
43 IC 13-20-17.7-9.**

44 SECTION 5. IC 13-11-2-71, AS AMENDED BY SEA 234-2006,
45 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
46 JULY 1, 2006]: Sec. 71. "Environmental management laws" refers to
47 the following:

- 48 (1) IC 13-12-2 and IC 13-12-3.
49 (2) IC 13-13.
50 (3) IC 13-14.
51 (4) IC 13-15.

- 1 (5) IC 13-16.
 2 (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
 3 (7) IC 13-18-12 and IC 13-18-15 through IC 13-18-20.
 4 (8) IC 13-19-1 and IC 13-19-4.
 5 (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15,
 6 **IC 13-20-17.7**, and IC 13-20-19 through IC 13-20-21.
 7 (10) IC 13-22.
 8 (11) IC 13-23.
 9 (12) IC 13-24.
 10 (13) IC 13-25-1 through IC 13-25-5.
 11 (14) IC 13-27-8.
 12 (15) IC 13-30, except IC 13-30-1.

13 SECTION 6. IC 13-11-2-104.5 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2006]: **Sec. 104.5. (a) "Hulk crusher", for**
 16 **purposes of this chapter, means an enterprise that engages in the**
 17 **business of handling and flattening, compacting, or otherwise**
 18 **demolishing motor vehicles or their remains for economical**
 19 **delivery to a scrap metal processor or other appropriate facility.**

20 **(b) This section expires on the date IC 13-20-17.7 expires under**
 21 **IC 13-20-17.7-9.**

22 SECTION 7. IC 13-11-2-128.8 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2006]: **Sec. 128.8. (a) "Mercury switch", for**
 25 **purposes of IC 13-20-17.7, means a convenience light switch that:**

- 26 (1) is located in the hood or trunk lid of a motor vehicle; and
 27 (2) contains mercury.

28 **(b) This section expires on the date IC 13-20-17.7 expires under**
 29 **IC 13-20-17.7-9.**

30 SECTION 8. IC 13-11-2-130.1 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2006]: **Sec. 130.1. (a) "Motor vehicle", for**
 33 **purposes of this chapter, means a vehicle that is self-propelled on**
 34 **a highway in Indiana. The term does not include a farm tractor or**
 35 **a motorized bicycle.**

36 **(b) This section expires on the date IC 13-20-17.7 expires under**
 37 **IC 13-20-17.7-9.**

38 SECTION 9. IC 13-11-2-130.2 IS ADDED TO THE INDIANA
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2006]: **Sec. 130.2. (a) "Motor vehicle**
 41 **manufacturer", for purposes of this chapter, means a person that**
 42 **is engaged in the business of manufacturing or assembling new**
 43 **motor vehicles for sale to any of the following:**

- 44 (1) Dealers.
 45 (2) Wholesale dealers.
 46 (3) Distributors.
 47 (4) The general public.

48 **(b) This section expires on the date IC 13-20-17.7 expires under**
 49 **IC 13-20-17.7-9.**

50 SECTION 10. IC 13-11-2-130.3 IS ADDED TO THE INDIANA
 51 CODE AS A NEW SECTION TO READ AS FOLLOWS

1 [EFFECTIVE JULY 1, 2006]: Sec. 130.3. (a) "Motor vehicle
2 recycler", for purposes of IC 13-20-17.7, means any of the
3 following:

- 4 (1) An automotive salvage recycler.
- 5 (2) An automobile scrapyard.
- 6 (3) A hulk crusher.
- 7 (4) A scrap metal processor.
- 8 (5) A vehicle disposal facility.

9 (b) This section expires on the date IC 13-20-17.7 expires under
10 IC 13-20-17.7-9.

11 SECTION 11. IC 13-11-2-136.5 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2006]: Sec. 136.5. (a) "National mercury
14 switch recovery program", for purposes of IC 13-20-17.7, means a
15 national program:

- 16 (1) that accomplishes, as determined by the commissioner, the
17 goals of IC 13-20-17.7; and
- 18 (2) in which the state participates.

19 (b) This section expires on the date IC 13-20-17.7 expires under
20 IC 13-20-17.7-9.

21 SECTION 12. IC 13-11-2-196.5 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2006]: Sec. 196.5. (a) "Scrap metal
24 processor", for purposes of this chapter, means a private,
25 commercial, or governmental enterprise:

- 26 (1) that has facilities for processing iron, steel, or nonferrous
27 scrap; and
- 28 (2) whose principal product is scrap iron, scrap steel, or
29 nonferrous scrap for sale for remelting purposes.

30 (b) The term does not include a steel mill.

31 (c) This section expires on the date IC 13-20-17.7 expires under
32 IC 13-20-17.7-9.

33 SECTION 13. IC 13-11-2-245.2 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2006]: Sec. 245.2. (a) "Vehicle disposal
36 facility", for purposes of this chapter, means a person, firm, limited
37 liability company, corporation, or other legal entity that, in the
38 course of business, engages in the acquisition and dismantling or
39 demolition of motor vehicles, motorcycles, semitrailers, or
40 recreational vehicles or their remains for the benefit of reusable
41 components and parts or recyclable materials.

42 (b) The term includes the following enterprises:

- 43 (1) An automotive salvage recycler.
- 44 (2) A hulk crusher.

45 (c) The term does not include a scrap metal processor.

46 (d) This section expires on the date IC 13-20-17.7 expires under
47 IC 13-20-17.7-9.

48 SECTION 14. IC 13-14-12-1 IS AMENDED TO READ AS
49 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The officials
50 collecting the following shall remit the money to the treasurer of state:

- 51 (1) Money collected under the following:

1 (A) IC 13-30-4-1.

2 (B) IC 13-30-4-2.

3 (C) IC 13-30-5-1.

4 (2) Fees collected under IC 13-16-1-2 through IC 13-16-1-5.

5 (b) Except as provided in subsection (c), the treasurer of state shall
6 credit the money to the environmental management special fund.

7 (c) With respect to the money collected under subsection (a)(1)(A)
8 and (a)(1)(B):

9 (1) the commissioner may direct the treasurer of state to credit
10 all or a part of the money to the solid waste management fund
11 established by IC 13-20-22-2; and

12 (2) the treasurer of state shall:

13 (A) credit money as directed by the commissioner under
14 subdivision (1); and

15 (B) credit to the environmental management special fund
16 only money that is not credited under subdivision (1).

17 SECTION 15. IC 13-20-17.7 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2006]:

20 **Chapter 17.7. Mercury Switches in End of Life Vehicles**

21 **Sec. 1. (a) Except as provided in subsection (b), motor vehicle**
22 **manufacturers engaged on July 1, 2006, in the business of offering**
23 **motor vehicles for sale in Indiana shall, individually or collectively:**

24 (1) develop a plan to:

25 (A) remove;

26 (B) collect;

27 (C) recover; and

28 (D) recycle or dispose of;

29 mercury switches from end of life vehicles;

30 (2) submit the plan to the commissioner before October 1,
31 2006; and

32 (3) implement the plan as required under section 4(b) of this
33 chapter.

34 (b) Subsection (a) does not apply to a motor vehicle manufacturer
35 that has never installed mercury switches in the manufacturer's
36 motor vehicles.

37 **Sec. 2. (a) A plan described in section 1 of this chapter must**
38 **include the following:**

39 (1) An education program concerning the purposes of the
40 mercury switch collection program and how to participate in
41 the program, including the following:

42 (A) Educational materials about the program.

43 (B) Information identifying which end of life vehicles might
44 contain mercury switches by make, model, and year of
45 manufacture.

46 (C) Instructions on safe and environmentally sound methods
47 to remove mercury switches.

48 (2) The provision of containers for collecting and storing
49 mercury switches.

50 (3) Procedures for the transportation of mercury switches to
51 recycling, storage, or disposal facilities.

1 (4) Procedures for the recycling, storage, and disposal of
2 mercury.

3 (5) Procedures to track the progress of the program, including
4 a description of performance measures to be used and reported
5 to demonstrate that the program is meeting measures of the
6 effectiveness of the program, including the following:

7 (A) The number of mercury switches collected from end of
8 life vehicles.

9 (B) The amount of mercury collected.

10 (6) Procedures for implementing the plan.

11 (b) The department shall:

12 (1) prepare an annual report that includes the information
13 tracked under subsection (a)(5); and

14 (2) provide the report to:

15 (A) the legislative council in an electronic format under
16 IC 5-14-6; and

17 (B) the environmental quality service council.

18 Sec. 3. Motor vehicle manufacturers that submit plans,
19 individually or collectively, under this chapter shall pay the
20 following costs incurred for implementing the plans:

21 (1) Educational materials.

22 (2) Training.

23 (3) Packaging for transporting mercury switches to recycling,
24 storage, or disposal facilities.

25 (4) Shipping of mercury switches to recycling, storage, or
26 disposal facilities.

27 (5) Recycling, storage, or disposal of mercury switches.

28 (6) Maintenance of all appropriate systems and procedures to
29 protect the environment from mercury contamination.

30 Sec. 4. (a) The commissioner shall do the following:

31 (1) Not more than thirty (30) days after receiving a plan
32 developed by a motor vehicle manufacturer or a group of
33 motor vehicle manufacturers under section 1 of this chapter,
34 issue a public notice of a period of at least thirty (30) days
35 during which the public may submit written comments on the
36 plan to the commissioner.

37 (2) Not more than one hundred twenty (120) days after
38 receiving a plan, determine whether the entire plan complies
39 with this chapter and:

40 (A) if the entire plan complies with this chapter, approve the
41 plan in its entirety;

42 (B) if no part of the plan complies with this chapter, reject
43 the plan in its entirety; or

44 (C) if only part of the plan complies with this chapter,
45 approve that part and reject the rest of the plan.

46 (b) If a plan is approved in its entirety under subsection (a)(2)(A),
47 the motor vehicle manufacturers shall begin implementing the plan
48 not more than thirty (30) days after the date the plan is approved.
49 If an entire plan is rejected under subsection (a)(2)(B), the
50 commissioner shall inform the motor vehicle manufacturers why
51 the plan was rejected, and the manufacturers shall submit a new

1 plan not more than thirty (30) days after the commissioner informs
 2 the manufacturers that the entire plan was rejected. If a plan is
 3 approved in part and rejected in part under subsection (a)(2)(C),
 4 the manufacturers shall immediately implement the approved part
 5 of the plan and submit a revision of the rejected part of the plan
 6 not more than thirty (30) days after the commissioner informs the
 7 manufacturers of the commissioner's partial approval. The
 8 commissioner shall make a determination on a revised plan not
 9 more than thirty (30) days after receiving the revised plan.

10 (c) Not more than two hundred forty (240) days after receiving
 11 a plan developed by motor vehicle manufacturers under section 1
 12 of this chapter, the commissioner shall complete, on behalf of the
 13 manufacturer, any part of the plan that has not yet been approved.

14 (d) After a plan has been approved under this section, the
 15 commissioner shall:

- 16 (1) review the plan three (3) years after the original date of
- 17 approval of the plan and every three (3) years thereafter; and
- 18 (2) work with the motor vehicle manufacturers to agree with
- 19 the manufacturers on appropriate modifications to the plan.

20 (e) Motor vehicle manufacturers are not required to resubmit a
 21 plan modified under subsection (d) to the commissioner for
 22 approval.

23 **Sec. 5. (a)** Beginning thirty (30) days after the earliest date the
 24 commissioner approves a plan under section 4 of this chapter, a
 25 motor vehicle recycler is required to remove all mercury switches
 26 from each end of life vehicle the motor vehicle recycler receives
 27 upon receipt of the vehicle.

28 (b) After a mercury switch is removed from a vehicle, the
 29 mercury switch shall be collected, stored, transported, and
 30 otherwise handled in accordance with the plan approved under
 31 section 4 of this chapter.

32 (c) Notwithstanding subsection (a), a motor vehicle recycler may
 33 accept an end of life vehicle containing mercury switches that has
 34 not been intentionally flattened, crushed, or baled if the motor
 35 vehicle recycler assumes responsibility for removing the mercury
 36 switches.

37 (d) A motor vehicle recycler or any other person that removes
 38 mercury switches in accordance with this section shall maintain
 39 records that document the number of:

- 40 (1) end of life vehicles the person processed for recycling;
- 41 (2) end of life vehicles the person processed that contained
- 42 mercury switches; and
- 43 (3) mercury switches the person collected.

44 A person that maintains records under this section shall retain the
 45 records for at least three (3) years.

46 (e) A person may not represent that mercury switches have been
 47 removed from a motor vehicle being sold or otherwise conveyed for
 48 recycling if the person has not removed the mercury switches from
 49 the vehicle.

50 (f) A motor vehicle recycler or other person that receives an
 51 intentionally flattened, crushed, or baled end of life vehicle may not

1 be considered to be in violation of this section if a mercury switch
2 is found in the vehicle after the person acquires the vehicle.

3 Sec. 6. (a) Subject to subsections (b), (c), and (d), a person is
4 entitled to payment from the department for each mercury switch
5 the person removes from an end of life vehicle under section 5(a) of
6 this chapter.

7 (b) The commissioner shall establish:

8 (1) the amount of the payment under subsection (a), which
9 must be:

10 (A) at least one dollar (\$1); and

11 (B) not more than five dollars (\$5);

12 per mercury switch; and

13 (2) a procedure for claims for payment under this section.

14 (c) The commissioner shall determine:

15 (1) whether to use money in the state solid waste management
16 fund; and

17 (2) if the commissioner determines under subdivision (1) to use
18 money in that fund, the amount of money from the fund to be
19 used;

20 to make payments under this section.

21 (d) The department is required to make payments under this
22 section only to the extent of the amount of money determined by
23 the commissioner under subsection (c)(2).

24 Sec. 7. The board may adopt rules under IC 4-22-2 and
25 IC 13-14-9 to implement this chapter.

26 Sec. 8. (a) This chapter shall be enforced under IC 13-30-3.

27 (b) A violation of this chapter or a rule adopted under this
28 chapter is subject to the penalties set forth in the following:

29 (1) IC 13-30-4.

30 (2) IC 13-30-5.

31 (3) IC 13-30-6.

32 (4) IC 13-30-8.

33 Sec. 9. This chapter expires on the earlier of:

34 (1) the date on which a national mercury switch recovery
35 program takes effect, as determined by the commissioner; or

36 (2) July 1, 2016.

37 SECTION 16. IC 13-20-22-2 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The state solid
39 waste management fund is established to provide money for the
40 following:

41 (1) Programs that provide grants and loans that provide education
42 and promote the following:

43 (A) Recycling and the use of recycled materials.

44 (B) Waste reduction.

45 (C) Management of yard waste.

46 (2) Providing grants to implement household hazardous waste
47 source reduction or recycling projects.

48 (3) Providing grants for household hazardous waste and
49 conditionally exempting small quantity generator waste collection,
50 recycling, or disposal projects under IC 13-20-20.

51 (4) Payments by the department under IC 13-20-17.7-6.

1 (b) The expenses of administering the fund shall be paid from money
2 in the fund.

3 (c) The sources of money for the fund are the following:

4 (1) All fees deposited into the fund under section 12(2) of this
5 chapter.

6 (2) Accrued interest and other investment earnings of the fund.

7 (3) Appropriations made by the general assembly.

8 (4) Gifts and donations from any person to the fund.

9 (5) **Civil penalties imposed under IC 13-30-4 and fines imposed**
10 **under IC 13-30-6 for violations of IC 13-20-17.7.**

11 (6) **Subject to subsection (f), assets assigned and other**
12 **contributions made by persons.**

13 (7) **Transfers from the Indiana recycling promotion and**
14 **assistance fund under IC 4-23-5.5-14(i).**

15 (8) **Money credited to the fund from the environmental**
16 **management special fund under IC 13-14-12-1(c).**

17 (d) The treasurer of state shall invest the money in the fund not
18 currently needed to meet the obligations of the fund in the same manner
19 as other public money may be invested.

20 (e) Money in the fund at the end of a state fiscal year does not revert
21 to the state general fund.

22 (f) **Money in the fund resulting from assets assigned and other**
23 **contributions made under subsection (c)(6) may be used only by the**
24 **department of environmental management to make payments**
25 **under IC 13-20-17.7-6.**

(Reference is to EHB 1110 as reprinted February 28, 2006.)