

CHAPTER 713

(House Bill 1263)

AN ACT concerning

Mercury Switch Removal from Vehicles

FOR the purpose of requiring motor vehicle manufacturers to develop a mercury minimization plan that includes information on mercury switch removal from motor vehicles; requiring certain manufacturers to submit a certain plan to the Department of the Environment within a certain number of days after the enactment date of this Act; establishing certain requirements for a mercury minimization plan; requiring vehicle manufacturers to pay certain costs associated with mercury switch removal; ~~requiring~~ authorizing the Department to review the plan and make a determination about the ~~status~~ adequacy of the plan within a certain number of days; requiring a vehicle recycler to remove mercury switches from end-of-life vehicle inventory and vehicles processed into ~~their~~ the vehicle recycler's inventory within a certain period of time; authorizing the Department to impose certain penalties for violators of a mercury minimization plan; authorizing a scrap ~~recycling~~ processing facility to accept end-of-life vehicles that contain mercury switches under certain circumstances; providing that certain fees, fines, and penalties be deposited in the State Recycling Trust Fund; defining certain terms; authorizing the Department to adopt rules and regulations to administer the plan; requiring an annual report containing certain information to be submitted to the Department; requiring certain vehicle manufacturers to report certain information to the Department on or before a certain date; ~~requiring the Department to make a certain determination; making this Act subject to a certain contingency; requiring the Department to forward a copy of a certain determination to the Department of Legislative Services; providing for the termination of this Act under certain circumstances~~; requiring the Department to submit a certain report to the General Assembly each year on or before a certain date; establishing a certain capture rate goal for a certain year; defining certain terms; providing for the termination of this Act; and generally relating to mercury switch removal from motor vehicles.

BY repealing and reenacting, with amendments,
 Article – Environment
 Section ~~6-904 and 6-905~~, 6-905, and 19-1707(f)
 Annotated Code of Maryland
 (2007 Replacement Volume and 2008 Supplement)

BY adding to
 Article – Environment

Section 6–905.4 through 6–905.6
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

6–904.

The General Assembly finds that:

- (1) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment;
- (2) Consumption of mercury–contaminated fish poses a significant health threat;
- (3) Combustion of municipal and other solid waste is a source of mercury pollution;

(4) MANUFACTURE OF NEW STEEL FROM MERCURY–CONTAINING SCRAP STEEL IS A SIGNIFICANT SOURCE OF MERCURY POLLUTION;

~~[(4)]~~ (5) Both industry and government are working to reduce the content of mercury in products and to control the release of mercury into the environment;

~~[(5)]~~ (6) Accidental mercury spills, breakages, and releases have occurred at schools in the United States, exposing students, teachers, and administrators to mercury emissions; [and]

~~[(6)]~~ (7) Removal of mercury and mercury containing products from the waste stream prior to combustion or disposal is an effective way to reduce mercury pollution; **AND**

(8) THE VOLUNTARY NATIONAL VEHICLE MERCURY SWITCH ~~REMOVAL~~ RECOVERY PROGRAM HAS NOT REMOVED A SUFFICIENT PERCENTAGE OF MERCURY–CONTAINING SWITCHES IN THE STATE TO PROTECT THE ENVIRONMENT.

6–905.

- (a) In this part the following words have the meanings indicated.

(B) “CAPTURE RATE” MEANS THE ANNUAL REMOVAL, COLLECTION, AND RECOVERY OF MERCURY SWITCHES AS A PERCENTAGE OF TOTAL NUMBER OF MERCURY SWITCHES AVAILABLE FROM END-OF-LIFE VEHICLES FOR THAT YEAR.

(C) “END-OF-LIFE VEHICLE” MEANS A MOTOR VEHICLE THAT IS SOLD, GIVEN, OR OTHERWISE CONVEYED TO A VEHICLE RECYCLER OR SCRAP ~~RECYCLING~~ PROCESSING FACILITY FOR THE PURPOSE OF RESALE OF ITS PARTS OR RECYCLING.

[(b)] (D) “Manufacturer” means a person that:

- (1) Produces a product;
- (2) For a multicomponent product, produces or assembles the final product; or
- (3) Serves as an importer or domestic distributor of a product produced outside of the United States.

[(c)] (E) “Marketer” means a person that manufactures, assembles, sells, distributes, affixes a brand name or private label to, or licenses the use of a brand name on:

- (1) A fever thermometer containing mercury; or
- (2) A thermostat containing mercury.

[(d)] (F) “Mercury-added product” means any of the following products if containing elemental mercury or a mercury compound that has been added to the product for any reason:

- (1) Dyes or pigments;
- (2) Electric switches; and
- (3) Fluorescent lamps.

(G) “MERCURY MINIMIZATION PLAN” MEANS A PLAN FOR REMOVING, COLLECTING, AND RECOVERING MERCURY SWITCHES FROM AN END-OF-LIFE VEHICLE.

(H) **“MERCURY SWITCH” MEANS ANY LIGHT SWITCH OR ANTILOCK BRAKING SYSTEM SWITCH THAT CONTAINS MERCURY AND THAT IS INSTALLED BY A MANUFACTURER IN A MOTOR VEHICLE.**

(I) **“MERCURY SWITCH ASSEMBLY” MEANS A ~~LIGHT~~, LIGHT SWITCH ASSEMBLY OR AN ANTILOCK BRAKING ~~SYSTEM, OR OTHER~~ SYSTEM SWITCH ASSEMBLY THAT CONTAINS A MERCURY SWITCH.**

[(e)] (J) “Motor vehicle” has the meaning stated in § 11-135 of the Transportation Article.

[(f)] (K) “Reclamation facility” means a site:

(1) Where equipment is used to recapture mercury from mercury-added fluorescent lamps for the purpose of recycling or reusing the mercury; or

(2) That collects mercury containing components from mercury-added fluorescent lamps for the eventual recapture and recycling or reuse of the mercury.

(L) **“~~SCRAP RECYCLING PROCESSING FACILITY~~” MEANS A ~~FIXED LOCATION WHERE MACHINERY AND EQUIPMENT ARE USED FOR PROCESSING AND MANUFACTURING SCRAP METAL INTO PREPARED GRADES AND THE PRINCIPAL PRODUCT IS SCRAP IRON, STEEL, OR NONFERROUS METALLIC SCRAP FACILITY:~~**

(1) THAT PROCESSES IRON, STEEL, AND NONFERROUS SCRAP METAL; AND

(2) THE PRINCIPAL PRODUCT OF WHICH IS SCRAP IRON, SCRAP STEEL, AND NONFERROUS SCRAP FOR SALE AND REMELTING PURPOSES.

[(g)] (M) “Thermostat” means a device that regulates temperature in an enclosed area by controlling heating, cooling, or ventilation equipment.

(N) **“VEHICLE MANUFACTURER” MEANS A PERSON THAT:**

(1) **IS THE LAST PERSON IN THE PRODUCTION OR ASSEMBLY PROCESS OF A NEW MOTOR VEHICLE THAT USES MERCURY SWITCHES; OR**

(2) **SERVES AS AN IMPORTER OR DOMESTIC DISTRIBUTOR OF A MOTOR VEHICLE THAT USES MERCURY SWITCHES PRODUCED OUTSIDE OF THE UNITED STATES.**

(O) (1) "VEHICLE RECYCLER" MEANS A PERSON ENGAGED IN THE BUSINESS OF ACQUIRING, DISMANTLING, OR DESTROYING SIX OR MORE END-OF-LIFE VEHICLES IN A CALENDAR YEAR FOR THE PRIMARY PURPOSE OF RESALE AND PARTS;

(I) DISMANTLING, DESTROYING, OR SCRAPPING ANY VEHICLE FOR THE PURPOSE OF RESELLING ANY OF ITS USABLE PARTS; OR

(II) OTHERWISE ACQUIRING VEHICLES FOR THE BENEFIT OF THEIR PARTS OR THE MATERIALS IN THEM.

(2) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, ANY REFERENCE TO A WRECKER IN ANY STATUTE, RULE, OR REGULATION SHALL APPLY TO A VEHICLE RECYCLER.

6-905.4.

(A) THIS SECTION APPLIES TO A VEHICLE MANUFACTURER MANUFACTURERS THAT SELLS SOLD MOTOR VEHICLES WITHIN THE STATE THAT CONTAINED MERCURY SWITCHES.

(B) (1) ON OR BEFORE SEPTEMBER 30, 2009, A VEHICLE MANUFACTURER MANUFACTURERS, INDIVIDUALLY OR AS A GROUP, SHALL DEVELOP A MERCURY MINIMIZATION PLAN AND SUBMIT IT TO THE DEPARTMENT FOR REVIEW AND APPROVAL.

(2) A VEHICLE MANUFACTURER IN THE STATE THAT ALREADY HAS PROCESSES AND PROCEDURES IN PLACE THAT MEET OR EXCEED THE REQUIREMENTS OF THIS SECTION MAY PROPOSE THE USE OF THOSE PROCESSES AND PROCEDURES IN ITS MERCURY MINIMIZATION PLAN.

(C) THE PLAN SHALL CONTAIN:

(1) INFORMATION IDENTIFYING THE MAKE, MODEL, AND YEAR OF VEHICLES THAT MAY CONTAIN A MERCURY SWITCH, INCLUDING:

(I) THE LOCATION OF THE SWITCH;

(II) THE LOCATION OF A MERCURY SWITCH ASSEMBLY; AND

(III) INFORMATION REGARDING THE SAFE AND ENVIRONMENTALLY SOUND METHOD FOR REMOVING THE SWITCH FROM END-OF-LIFE VEHICLES;

(2) **EDUCATIONAL MATERIAL AND TRAINING MATERIALS TO ASSIST A VEHICLE RECYCLER OR A SCRAP ~~RECYCLING~~ PROCESSING FACILITY UNDERTAKING A SAFE METHOD FOR REMOVAL OF MERCURY SWITCHES AND ASSEMBLIES, INCLUDING INFORMATION ON THE HAZARDS AND PROPER HANDLING OF MERCURY;**

(3) **A PROPOSAL FOR THE METHOD OF STORAGE OR DISPOSAL OF MERCURY SWITCHES AND ASSEMBLIES, INCLUDING THE METHOD OF PACKAGING AND SHIPPING;**

(4) **A PROPOSAL FOR THE STORAGE OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES COLLECTED AND RECOVERED IN THE EVENT THAT APPROPRIATE MANAGEMENT TECHNOLOGIES ARE NOT AVAILABLE;**

(5) **A PLAN FOR IMPLEMENTING AND FINANCING THE REMOVAL, COLLECTION, AND RECOVERY SYSTEM, IN ACCORDANCE WITH ITEM (6) OF THIS SUBSECTION; AND**

(6) **INFORMATION THAT ESTABLISHES THE FINANCING OF THE REMOVAL, COLLECTION, AND RECOVERY SYSTEM FOR THE PROPER MANAGEMENT OF MERCURY SWITCHES, INCLUDING:**

(I) **PAYMENT BY A VEHICLE MANUFACTURER FOR THE COSTS ASSOCIATED WITH THE REMOVAL, COLLECTION, AND RECOVERY FOR THE PROPER MANAGEMENT OF MERCURY SWITCHES;**

(II) **ESTABLISHMENT BY A VEHICLE MANUFACTURER OF A METHOD TO ENSURE THE PROMPT PAYMENT TO A VEHICLE RECYCLER, A SCRAP ~~RECYCLING~~ PROCESSING FACILITY, AND THE DEPARTMENT;**

(III) **PAYMENT BY A MANUFACTURER OF THE FOLLOWING COSTS:**

1. **A MINIMUM OF ~~\$3~~ \$4 FOR EACH MERCURY LIGHT SWITCH OR LIGHT SWITCH ASSEMBLY ~~OR MERCURY SWITCH ASSEMBLY~~ AND \$6 FOR EACH ANTILOCK ~~BREAKING~~ BRAKING SYSTEM SWITCH ASSEMBLY REMOVED BY A VEHICLE RECYCLER IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE AS PARTIAL COMPENSATION FOR THE LABOR AND OTHER COSTS INCURRED BY A VEHICLE RECYCLER IN THE REMOVAL OF THE MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY;**

2. **A MINIMUM OF ~~\$3~~ \$4 FOR EACH MERCURY LIGHT SWITCH OR LIGHT SWITCH ASSEMBLY ~~OR MERCURY SWITCH ASSEMBLY~~ AND \$6**

FOR EACH ANTILOCK ~~BREAKING~~ BRAKING SYSTEM SWITCH ASSEMBLY REMOVED BY A SCRAP ~~RECYCLING~~ PROCESSING FACILITY IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE AS PARTIAL COMPENSATION FOR THE LABOR AND OTHER COSTS INCURRED BY A SCRAP ~~RECYCLING~~ PROCESSING FACILITY IN THE REMOVAL OF THE MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY; AND

3. \$1 FOR EACH MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY REMOVED BY A VEHICLE RECYCLER OR BY A SCRAP ~~RECYCLING~~ PROCESSING FACILITY IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE TO THE STATE RECYCLING TRUST FUND AS PARTIAL COMPENSATION FOR THE DEPARTMENT FOR COSTS INCURRED IN ADMINISTERING AND ENFORCING THE PROVISIONS OF THIS SUBTITLE;

(IV) PACKAGING FOR TRANSPORTING MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL FACILITIES;

(V) SHIPPING OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL FACILITIES;

(VI) RECYCLING, STORAGE, OR DISPOSAL OF THE MERCURY SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL FACILITIES;

(VII) PREPARATION AND DISTRIBUTION TO VEHICLE RECYCLERS AND SCRAP ~~RECYCLING~~ PROCESSING FACILITIES OF THE EDUCATIONAL MATERIALS REQUIRED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION; AND

(VIII) MAINTENANCE OF ALL APPROPRIATE RECORD KEEPING SYSTEMS.

(D) (1) WITHIN ~~60~~ 90 DAYS AFTER RECEIVING A MERCURY MINIMIZATION PLAN, THE DEPARTMENT ~~SHALL~~ MAY APPROVE, DISAPPROVE, OR CONDITIONALLY APPROVE THE ENTIRE MERCURY MINIMIZATION PLAN.

(2) THE DEPARTMENT MAY RECEIVE INPUT FROM A REPRESENTATIVE OF A VEHICLE RECYCLER, SCRAP ~~RECYCLING~~ PROCESSING FACILITY, OR ANY OTHER STAKEHOLDER AS THE DEPARTMENT DETERMINES NECESSARY.

(3) ~~IF THE ENTIRE MERCURY MINIMIZATION PLAN IS APPROVED, THE~~ THE VEHICLE MANUFACTURER SHALL BEGIN IMPLEMENTATION OF THE MERCURY MINIMIZATION PLAN WITHIN 30 DAYS AFTER ~~APPROVAL, OR AS~~

~~OTHERWISE DETERMINED~~ SUBMITTAL, UNLESS OTHERWISE DIRECTED BY THE DEPARTMENT.

(4) (I) IF THE ENTIRE MERCURY MINIMIZATION PLAN IS DISAPPROVED, THE DEPARTMENT SHALL INFORM THE VEHICLE MANUFACTURER OF THE REASONS FOR THE DISAPPROVAL.

(II) THE MANUFACTURER HAS 30 DAYS AFTER RECEIVING NOTICE OF THE DISAPPROVED PLAN TO SUBMIT A NEW MERCURY MINIMIZATION PLAN.

(5) (I) THE DEPARTMENT MAY ~~APPROVE~~ DISAPPROVE THOSE PARTS OF A MERCURY MINIMIZATION PLAN THAT DO NOT MEET THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION ~~AND DISAPPROVE ANY PARTS THAT DO NOT COMPLY WITH THE REQUIREMENTS.~~

(II) A MANUFACTURER SHALL:

1. IMPLEMENT THE APPROVED PARTS OF A PLAN NOT DISAPPROVED WITHIN 30 DAYS AFTER APPROVAL SUBMITTAL OR AS OTHERWISE DETERMINED DIRECTED BY THE DEPARTMENT; AND

2. SUBMIT A REVISED MERCURY MINIMIZATION PLAN FOR THE DISAPPROVED PARTS WITHIN 30 DAYS AFTER RECEIVING NOTIFICATION OF THE DISAPPROVAL FROM THE DEPARTMENT.

(III) THE DEPARTMENT ~~SHALL~~ MAY REVIEW AND APPROVE, CONDITIONALLY APPROVE, OR DISAPPROVE A REVISED MERCURY MINIMIZATION PLAN WITHIN 30 DAYS AFTER RECEIVING THE PLAN.

~~(6) (I) ON OR AFTER 90 DAYS FROM THE DATE THE DEPARTMENT RECEIVES A MERCURY MINIMIZATION PLAN, IF THE DEPARTMENT HAS NEITHER APPROVED NOR DISAPPROVED THE MERCURY MINIMIZATION PLAN IN ACCORDANCE WITH THIS SUBSECTION, THE MERCURY MINIMIZATION PLAN SHALL BE CONSIDERED CONDITIONALLY APPROVED.~~

~~(II) A VEHICLE MANUFACTURER SHALL IMPLEMENT A CONDITIONALLY EFFECTIVE MERCURY MINIMIZATION PLAN WITHIN 30 DAYS AFTER RECEIVING APPROVAL OR AS OTHERWISE DETERMINED BY THE DEPARTMENT.~~

(E) THE DEPARTMENT MAY COMPLETE, ON BEHALF OF A VEHICLE MANUFACTURER, ANY PORTION OF A MERCURY MINIMIZATION PLAN THAT HAS NOT BEEN APPROVED BY JANUARY 1, 2010.

(F) THE DEPARTMENT MAY REVIEW A MERCURY MINIMIZATION PLAN ~~APPROVED~~ SUBMITTED IN ACCORDANCE WITH THIS SECTION AND RECOMMEND MODIFICATIONS IT CONSIDERS NECESSARY AT ANY TIME IF THE DEPARTMENT DETERMINES THAT THE APPROVED MERCURY MINIMIZATION PLAN IS DEFICIENT OR NOT MEETING THE GOALS OF THIS ACT.

(G) THE DEPARTMENT MAY ADOPT REGULATIONS TO ADMINISTER THE PROVISIONS OF THIS SECTION.

6-905.5.

(A) THIS SECTION APPLIES TO ANY PERSON THAT HAS ANY PART OF THE IMPLEMENTATION OF A MERCURY MINIMIZATION PLAN IN ACCORDANCE WITH § 6-905.4 OF THIS SUBTITLE.

(B) (1) UNLESS A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY IS INACCESSIBLE DUE TO SIGNIFICANT DAMAGE TO THE VEHICLE IN THE AREA SURROUNDING THE LOCATION OF THE MERCURY SWITCH, ~~WITHIN 30 DAYS AFTER THE APPROVAL OR CONDITIONAL APPROVAL OF A MERCURY MINIMIZATION PLAN,~~ ON AND AFTER DECEMBER 1, 2009, A VEHICLE RECYCLER THAT SELLS, GIVES, OR OTHERWISE CONVEYS OWNERSHIP OF AN END-OF-LIFE VEHICLE TO A SCRAP ~~RECYCLING~~ PROCESSING FACILITY FOR ~~RECYCLING~~ PROCESSING SHALL REMOVE ALL MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES IDENTIFIED IN THE APPROVED MERCURY MINIMIZATION ~~PLAN~~ FROM PLAN:

(I) FROM THE END-OF-LIFE VEHICLE BEFORE DELIVERY TO A SCRAP ~~RECYCLING~~ PROCESSING FACILITY;

(II) FROM THE END-OF-LIFE VEHICLE AT THE TIME THE VEHICLE IS PROCESSED, BUT NOT LATER THAN 180 DAYS AFTER THE RECEIPT OF AN END-OF-LIFE VEHICLE; AND

(III) ON OR BEFORE DECEMBER 31, 2010, FOR RECYCLING, FROM THE VEHICLE RECYCLER'S INVENTORY IN EXISTENCE AS OF SEPTEMBER 30, 2009.

~~(2) THE CAPTURE RATE GOAL FOR A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY SHALL BE AT LEAST 90%.~~

~~(3)~~ (2) IF THE MOTOR VEHICLE IS DAMAGED, THE DAMAGE SHALL BE NOTED ON THE NORMAL BUSINESS RECORDS OF THE VEHICLE RECYCLER THAT DELIVERED THE END-OF-LIFE VEHICLE TO THE SCRAP ~~RECYCLING~~ PROCESSING FACILITY.

~~(4)~~ (3) IF THE MERCURY SWITCH ASSEMBLY IS CORRODED, DAMAGED, OR MOLDED IN A WAY AS TO MAKE REMOVAL OF THE MERCURY PELLET FROM THE MERCURY SWITCH ASSEMBLY IMPRACTICAL OR POSE A DANGER OF DAMAGE TO THE PELLET, THE ENTIRE MERCURY SWITCH ASSEMBLY SHALL BE REMOVED.

(C) (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A SCRAP ~~RECYCLING~~ PROCESSING FACILITY MAY AGREE TO ACCEPT AN END-OF-LIFE VEHICLE CONTAINING MERCURY SWITCHES THAT HAS NOT BEEN INTENTIONALLY FLATTENED, CRUSHED, OR BALED.

(2) A SCRAP ~~RECYCLING~~ PROCESSING FACILITY SHALL BE RESPONSIBLE FOR REMOVING THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES IDENTIFIED IN THE MERCURY MINIMIZATION PLAN APPROVED IN ACCORDANCE WITH § 6-905.4 OF THIS SUBTITLE BEFORE THE END-OF-LIFE VEHICLE IS INTENTIONALLY FLATTENED, CRUSHED, BALED, OR SHREDDED.

(D) (1) A VEHICLE RECYCLER OR SCRAP ~~RECYCLING~~ PROCESSING FACILITY THAT REMOVES A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY IN ACCORDANCE WITH THIS SECTION SHALL MAINTAIN ELECTRONIC RECORDS DOCUMENTING THE NUMBER OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES COLLECTED, THE NUMBER OF END-OF-LIFE VEHICLES CONTAINING MERCURY SWITCHES, AND THE NUMBER OF END-OF-LIFE VEHICLES PROCESSED FOR RECYCLING.

(2) THE RECORDS REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION SHALL BE KEPT FOR 3 YEARS AND MADE AVAILABLE FOR REVIEW BY THE DEPARTMENT ON THE REQUEST OF THE DEPARTMENT.

(E) A PERSON MAY NOT FALSELY REPRESENT THAT MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES HAVE BEEN REMOVED FROM AN END-OF-LIFE VEHICLE BEING SOLD, GIVEN, OR OTHERWISE CONVEYED FOR RECYCLING IF THAT PERSON HAS NOT REMOVED THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES, OR ARRANGED WITH ANOTHER PERSON TO REMOVE THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES.

(F) ON REMOVAL, MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES SHALL BE COLLECTED, STORED, TRANSPORTED, RECYCLED, AND

OTHERWISE HANDLED AS REQUIRED BY THE MERCURY MINIMIZATION PLAN APPROVED IN ACCORDANCE WITH § 6-905.4 OF THIS SUBTITLE AND WITH ANY PROVISIONS OR REGULATIONS CONCERNING WASTE IN ACCORDANCE WITH TITLE 9 OF THIS ARTICLE.

(G) (1) ~~ON OR AFTER 1 YEAR OF THE IMPLEMENTATION OF A MERCURY MINIMIZATION PLAN APPROVED IN ACCORDANCE WITH § 6-905.4 OF THIS SUBTITLE~~ BEFORE JANUARY 31 OF EACH YEAR, A MANUFACTURER SHALL REPORT TO THE DEPARTMENT CONCERNING THE IMPLEMENTATION OF THE MERCURY MINIMIZATION PLAN.

(2) THE REPORT SHALL INCLUDE:

(I) A DETAILED DESCRIPTION AND DOCUMENTATION OF THE CAPTURE RATE ACHIEVED, IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION;

(II) A DESCRIPTION OF ADDITIONAL OR ALTERNATIVE ACTIONS THAT MAY BE IMPLEMENTED TO IMPROVE THE MERCURY MINIMIZATION PLAN AND ITS IMPLEMENTATION IN THE EVENT THAT A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY CAPTURE RATE OF AT LEAST 90% FOR THE PREVIOUS CALENDAR YEAR IS NOT ACHIEVED;

(III) THE NUMBERS OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES COLLECTED, END-OF-LIFE VEHICLES CONTAINING MERCURY SWITCHES, AND ~~END-OF-LIFE VEHICLES~~ MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES PROCESSED FOR RECYCLING;

(IV) A DESCRIPTION OF HOW THE MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES WERE MANAGED; AND

(V) A DESCRIPTION OF THE AMOUNTS PAID TO COVER THE COSTS OF IMPLEMENTING THE MERCURY MINIMIZATION PLAN.

(H) THE DEPARTMENT MAY DISCONTINUE THE REQUIREMENT FOR THE ANNUAL REPORT IF IT DETERMINES THAT MERCURY SWITCHES IN END-OF-LIFE VEHICLES WILL, BY THE END OF DECEMBER 2020, NO LONGER POSE A SIGNIFICANT THREAT TO THE ENVIRONMENT OR TO PUBLIC HEALTH.

(I) AFTER DECEMBER 1, 2011, IF THE DEPARTMENT DETERMINES THAT AN INSUFFICIENT NUMBER OF MERCURY SWITCHES HAVE BEEN RECYCLED, THE DEPARTMENT MAY PROPOSE NEW STRATEGIES TO INCREASE SWITCH REMOVAL AND RECYCLING, INCLUDING ADDITIONAL FUNDING SOURCES.

(J) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE DEPARTMENT OF THE ENVIRONMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(I) THE NUMBER OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES RECOVERED FROM VEHICLES;

(II) THE CAPTURE RATE OF SWITCH RECOVERY ACHIEVED;

(III) THE NUMBER OF SWITCHES PROJECTED TO BE RECOVERED;

(IV) THE AMOUNT AND USE OF FUNDS PAID INTO THE STATE RECYCLING TRUST FUND FOR THE ADMINISTRATION OF THIS ACT; AND

(V) ANY RECOMMENDATIONS TO IMPROVE THE PROVISIONS OF THIS ACT OR TO INCREASE THE CAPTURE RATE OF MERCURY SWITCHES FROM VEHICLES.

(2) THE DEPARTMENT SHALL ALSO INFORM THE GENERAL ASSEMBLY IF THE DEPARTMENT DETERMINES THAT MERCURY SWITCHES IN END-OF-LIFE VEHICLES NO LONGER POSE A SIGNIFICANT RISK TO THE ENVIRONMENT OR TO PUBLIC HEALTH.

~~(K) THE DEPARTMENT SHALL MAY ADOPT REGULATIONS TO ADMINISTER THE PROVISIONS OF THIS SECTION.~~

6-905.6.

~~(A) IF A PERSON VIOLATES ANY PROVISION OR ANY REGULATION ADOPTED IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE, THE DEPARTMENT:~~

~~(1) MAY ISSUE AN ORDER THAT:~~

~~(i) SPECIFIES THE PROVISION THAT ALLEGEDLY HAS BEEN VIOLATED;~~

~~(ii) STATES THE ACTIONS NECESSARY TO CORRECT THE VIOLATION AND THE TIME ALLOWED FOR CORRECTION; AND~~

~~(H) STATES THE PROCEDURE FOR REQUESTING A HEARING TO RESPOND TO THE VIOLATION ALLEGED IN THE ORDER, IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION;~~

~~(2) MAY IMPOSE AN ADMINISTRATIVE PENALTY NOT TO EXCEED:~~

~~(I) \$7,500 FOR A FIRST OFFENSE;~~

~~(II) \$10,000 FOR A SECOND OFFENSE; AND~~

~~(III) \$25,000 FOR A THIRD AND EVERY SUBSEQUENT OFFENSE;~~

~~(3) MAY NOT LEVY AN ASSESSMENT IN ACCORDANCE WITH THIS SECTION UNTIL AFTER THE VIOLATOR HAS BEEN NOTIFIED OF THE VIOLATION BY CERTIFIED MAIL OR PERSONAL SERVICE;~~

~~(4) MAY BRING AN ACTION FOR AN INJUNCTION AGAINST ANY PERSON THAT VIOLATES ANY PROVISION OR A REGULATION OR ORDER ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH § 6-905.5 OF THIS SUBTITLE; AND~~

~~(5) MAY PETITION THE ATTORNEY GENERAL TO BRING A CRIMINAL ACTION IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.~~

~~(B) (1) THE DEPARTMENT SHALL PROVIDE NOTICE OF A VIOLATION BY CERTIFIED MAIL OR PERSONAL SERVICE.~~

~~(2) A PERSON THAT RECEIVES NOTICE SHALL HAVE 20 DAYS AFTER RECEIVING THE NOTICE TO REQUEST A HEARING.~~

~~(3) AFTER THE HEARING, IF THE DEPARTMENT FINDS THAT A VIOLATION HAS OCCURRED, THE ORDER SHALL BECOME A FINAL ORDER.~~

~~(4) AFTER THE 20-DAY REQUEST PERIOD, IF NO HEARING IS REQUESTED, THE ORDER SHALL BECOME A FINAL ORDER.~~

~~(C) IF THE DEPARTMENT PURSUES ANY OF THE REMEDIES SPECIFIED UNDER THIS SECTION, THE DEPARTMENT IS NOT PRECLUDED FROM SEEKING ANY OTHER REMEDY AFFORDED IT UNDER THIS SECTION.~~

~~(D) ANY PENALTY IMPOSED UNDER THIS SECTION MAY BE COLLECTED, WITH COSTS, IN A SUMMARY PROCEEDING IN ACCORDANCE WITH THE PROCEDURES OF THE COURT.~~

~~(E) IN ANY ACTION FOR AN INJUNCTION, THE COURT MAY GRANT TEMPORARY OR INTERLOCUTORY RELIEF, INCLUDING:~~

~~(1) A TEMPORARY OR PERMANENT INJUNCTION; OR~~

~~(2) AN ASSESSMENT OF THE VIOLATOR FOR THE REASONABLE COSTS OF:~~

~~(I) ANY INSPECTION THAT LED TO THE ESTABLISHMENT OF THE VIOLATION; AND~~

~~(H) PREPARING AND LITIGATING THE ACTION BROUGHT UNDER SUBSECTION (A)(4) OF THIS SECTION.~~

~~(F) (1) A PERSON WHO WILLFULLY OR NEGLIGENTLY VIOLATES THE PROVISIONS OF § 6-905.5 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION OF A FIRST OFFENSE IS SUBJECT TO A FINE OF AT LEAST \$2,500 BUT NOT EXCEEDING \$25,000.~~

~~(2) A SECOND OFFENSE UNDER THIS SUBSECTION SHALL SUBJECT THE VIOLATOR TO A FINE OF AT LEAST \$5,000 BUT NOT EXCEEDING \$50,000.~~

~~(3) A PERSON THAT KNOWINGLY MAKES A FALSE STATEMENT, REPRESENTATION, OR CERTIFICATION IN ANY APPLICATION, RECORD, OR OTHER DOCUMENT FILED OR REQUIRED TO BE MAINTAINED UNDER THIS SUBTITLE OR THAT FALSIFIES, TAMPERS WITH, OR KNOWINGLY RENDERS INACCURATE ANY MONITORING DEVICE OR METHOD REQUIRED TO BE MAINTAINED IN ACCORDANCE WITH THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000.~~

(A) A PERSON THAT VIOLATES ANY PROVISION OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, OR ANY REGULATION ADOPTED TO IMPLEMENT THE PROVISIONS OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000;

(2) FOR A SECOND OFFENSE, A FINE NOT EXCEEDING \$2,500; AND

(3) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$5,000.

(B) A PERSON THAT VIOLATES ANY PROVISION OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, OR ANY REGULATION ADOPTED TO IMPLEMENT THE PROVISIONS OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, IS LIABLE FOR A CIVIL PENALTY TO BE COLLECTED IN A CIVIL ACTION IN THE CIRCUIT COURT FOR ANY COUNTY IN THE STATE NOT EXCEEDING:

- (1) \$1,000 FOR A FIRST OFFENSE;**
- (2) \$2,500 FOR A SECOND OFFENSE; OR**
- (3) \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.**

(C) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY, AFTER AN OPPORTUNITY FOR A HEARING, THE DEPARTMENT MAY IMPOSE A FINE FOR EACH VIOLATION OF § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, OR OF ANY REGULATION ADOPTED UNDER § 6-905.4 OR § 6-905.5 OF THIS SUBTITLE, NOT EXCEEDING:

- (I) \$1,000 FOR A FIRST OFFENSE;**
- (II) \$2,500 FOR A SECOND OFFENSE; OR**
- (III) \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.**

(2) THE DEPARTMENT SHALL CONSIDER THE FOLLOWING IN ASSESSING THE FINE IN PARAGRAPH (1) OF THIS SUBSECTION:

- (I) THE WILLFULNESS OF THE VIOLATION;**
- (II) THE EXTENT TO WHICH THE VIOLATION WAS KNOWN, BUT UNCORRECTED, BY THE VIOLATOR;**
- (III) THE EXTENT TO WHICH THE VIOLATION RESULTED IN ACTUAL HARM TO HUMAN HEALTH OR THE ENVIRONMENT;**
- (IV) THE NATURE AND DEGREE OF INJURY TO, OR INTERFERENCE WITH, GENERAL WELFARE AND HEALTH; AND**
- (V) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION BY THE VIOLATOR.**

(D) EACH DAY A VIOLATION CONTINUES IS A SEPARATE OFFENSE UNDER THIS SECTION.

(E) FINES AND PENALTIES COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN THE STATE RECYCLING TRUST FUND.

9-1707.

(f) (1) There is a State Recycling Trust Fund.

(2) The Fund shall consist of:

(i) The newsprint recycling incentive fee;

(ii) The telephone directory recycling incentive fee collected under § 9-1709 of this subtitle;

(iii) The covered electronic device manufacturer registration fee collected under § 9-1728 of this subtitle;

(iv) ~~THE MERCURY LIGHT SWITCH, ANTILOCK BRAKING SWITCH,~~ OR MERCURY SWITCH ASSEMBLY REMOVAL FEES COLLECTED UNDER § 6-905.4(C)(6)(III)3 OF THIS ARTICLE;

(v) All fines and penalties collected under this subtitle AND UNDER §§ 6-905.4 AND 6-905.6 OF THIS ARTICLE;

[(v)] (VI) Money appropriated in the State budget to the Fund;
and

[(vi)] (VII) Any other money from any other source accepted for the benefit of the Fund.

(3) The Secretary shall administer the Fund.

(4) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(5) At the end of each fiscal year, any unspent or unencumbered balance in the Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in accordance with § 7-302 of the State Finance and Procurement Article.

(6) In accordance with the State budget, the Fund shall be used only:

(i) To provide grants to the counties to be used by the counties to develop and implement local recycling plans;

(ii) To provide grants to counties that have addressed methods for the separate collection and recycling of covered electronic devices in accordance with § 9-1703(c)(1) of this subtitle;

(iii) To provide grants to municipalities to be used by the municipalities to implement local covered electronic device recycling programs; and

(iv) To carry out the purposes of the Office of Recycling under this subtitle AND UNDER TITLE 6, SUBTITLE 9 OF THIS ARTICLE.

(7) (i) The Treasurer shall invest the money in the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) On or before November 1, 2009, each vehicle manufacturer that sells motor vehicles in the State shall report to the Department of the Environment on how many mercury switches or mercury switch assemblies were captured in Maryland by the vehicle manufacturer under the National Vehicle Mercury Switch Removal Program during the 12-month period ending September 30, 2009.~~

~~(b) On or before December 1, 2009, the Department of the Environment shall determine whether the National Vehicle Mercury Switch Removal Program has captured at least 103,600 mercury switches or mercury switch assemblies in Maryland during the 12-month period ending September 30, 2009.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

~~(a) Section 1 of this Act shall take effect January 1, 2010, contingent on a determination under Section 2 of this Act by the Department of the Environment that fewer than 103,600 mercury switches or mercury switch assemblies were captured in Maryland under the National Vehicle Mercury Switch Removal Program during the 12-month period ending September 30, 2009.~~

~~(b) If the Department makes a determination under subsection (a) of this section:~~

~~(1) That fewer than 103,600 mercury switches or mercury switch assemblies were captured in Maryland under the National Vehicle Mercury Switch~~

~~Removal Program during the 12-month period ending September 30, 2009, Section 1 of this Act shall take effect on January 1, 2010; or~~

~~(2) That at least 103,600 mercury switches or mercury switch assemblies were captured in Maryland under the National Vehicle Mercury Switch Removal Program during the 12-month period ending September 30, 2009, 30 days after the Department makes the determination, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

~~(c) Within 5 days after making a determination under subsection (a) of this section, the Department shall forward a copy of the determination to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the capture rate goal for a mercury switch or mercury switch assembly shall be at least 90% in 2010.

~~SECTION 4. 3. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this Act, this Act shall take effect July 1, 2009. *It shall remain effective for a period of 8 years and 6 months and, at the end of December 31, 2017, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.*~~

Approved by the Governor, May 19, 2009.