

The Commonwealth of Massachusetts

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**In the Year Two Thousand Twelve**  
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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  
2 appearing in the 2010 Official Edition, is amended by adding after the first paragraph the  
3 following paragraph:-

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

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

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

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

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

21           (f) Respective inspectors of buildings shall require the prior removal of all mercury-  
22 added lamps located in areas of a structure or building to be demolished under an issued permit,

23 provided such lamp can be accessed safely for removal. All such removed lamps to be discarded  
24 shall be properly disposed in accordance with applicable law and regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

100 (5) On or before March 1, 2013, each such manufacturer shall submit its collection and  
101 recycling plan for mercury-added lamps for the initial 3 year period to the department; and,  
102 thereafter, shall submit to the department an up-dated plan at intervals as set by regulation. All  
103 plans shall be in a form and contain the information as prescribed by the department and shall  
104 comply with the provisions of this subsection and any applicable regulations. Each such plan  
105 submitted shall be subject to approval by the department. Within 60 days of receipt of a plan, the  
106 department shall review such plan and make a determination. If a plan is rejected or approved in  
107 part, the manufacturer shall, within 30 days after receipt of the determination, submit to the  
108 department a modified plan to comply with the requirements of this subsection. In the event the  
109 modified plan is not in full compliance with the requirements, the department within 30 days of  
110 its receipt shall issue to the manufacturer a notice of non-compliance that effective on August 1,  
111 2013, the manufacturer shall be subject to the prohibition of subsection (a), until a complying  
112 plan is filed and approved by the department. By regulation, the department shall adopt  
113 procedures of a similar nature for the submission for approval of manufacturer plans to the  
114 department after March 1, 2013. Each manufacturer mercury-added lamp collection and  
115 recycling program established under this subsection, shall be implemented and maintained in  
116 accordance with its plan as approved by the department. Notwithstanding, the department after  
117 such approval may require modification of a manufacturer's plan if necessary to comply with  
118 applicable federal and state laws and regulations.

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

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

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

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

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

145 In addition to any requirement under this subsection, a person who is in the business of  
146 selling or distributing mercury- added lamps having a physical location in the Commonwealth,  
147 shall post conspicuous signage on the premises where such lamps are displayed and offered for  
148 sale or if there is no such display, near the location where customer sales are customarily  
149 transacted, to alert customers of the required proper disposal and recycling requirements for  
150 mercury-added lamps, and with the identity and address of any local collection site where such  
151 lamps will be accepted. Templates of general signage shall be prepared by the department and  
152 posted on its public internet web-site, in a form that users may at no cost access and print for use.

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

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

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

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