

HOUSE BILL No. 5956

May 27, 2004, Introduced by Reps. Kolb, Farrah, Accavitti, Bieda, Dennis, Gleason, Gielegem, Lipsey and Tobocman and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 173.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **PART 173. MERCURY SWITCHES AND PRODUCTS**

2 **Sec. 17301. As used in this part:**

3 (b) "Capture rate" means the amount of mercury removed,
4 collected, and recovered from end-of-life motor vehicles
5 annually, expressed as a percentage of the total mercury
6 available from the vehicles.

7 (b) "Department" means the department of environmental
8 quality.

9 (c) "End-of-life vehicle" means a vehicle that is sold,
10 given, or otherwise conveyed to a motor vehicle crusher,
11 recycler, or scrap recycling facility for the purpose of

1 recycling.

2 (d) "Manufacturer" means a person that produces or assembles
3 a new motor vehicle that includes mercury-added components or, if
4 the vehicle is imported, the importer or domestic distributor of
5 the motor vehicle.

6 (e) "Mercury-added component" means a component that
7 contains mercury and that was intentionally added to a motor
8 vehicle. Mercury-added component includes, but is not limited
9 to, a switch, sensor, light, or navigational system.

10 (f) "Mercury switch" means a light switch or an antilock
11 brake system switch installed by a manufacturer in a motor
12 vehicle.

13 (g) "Vehicle in commerce" means a vehicle offered for sale
14 by a dealer or registered in the United States to be operated on
15 public roads and highways.

16 (h) "Vehicle recycler" means a person engaged in the
17 business of acquiring, dismantling, or crushing 6 or more
18 vehicles in a year for the primary purpose of reselling the parts
19 or materials from the vehicles.

20 Sec. 17303. (1) By January 1, 2005, every manufacturer of
21 motor vehicles sold within this state shall, individually or as
22 part of a group, implement a program to remove, collect, and
23 recover mercury switches before the dismantling or crushing of
24 end-of-life vehicles.

25 (2) A program implemented under this section shall include at
26 least all of the following:

27 (a) A mercury switch capture rate of at least 90%, consistent

1 with the principle that a mercury switch must be recovered unless
2 it is inaccessible due to significant damage to the motor vehicle
3 in the area surrounding the switch.

4 (b) A plan for implementing the program that does all of the
5 following:

6 (i) Uses existing vehicle end-of-life recycling
7 infrastructure to the extent possible.

8 (ii) Allows vehicle recyclers and crushers to collect either
9 mercury switch assemblies or mercury pellets to increase capture
10 rates.

11 (iii) Ensures that motor vehicles processed for dismantling
12 or crushing are marked to indicate presence or absence of a
13 mercury switch and switch removal.

14 (iv) Establishes a reporting system to track mercury switch
15 removal, including the make, model, and year of each car and the
16 presence or absence of mercury switches.

17 (v) Provides appropriate containers for collection of mercury
18 switches.

19 (vi) Ensures that mercury switches collected are processed,
20 recycled, stored, and disposed of in an environmentally sound
21 manner.

22 (vii) Allows for voluntary mercury switch removal from
23 vehicles-in-commerce.

24 (c) A plan, in collaboration with the department and other
25 interested parties, to provide training and assistance to vehicle
26 recyclers and other businesses dealing with end-of-life vehicles
27 and to dealers of vehicles-in-commerce.

1 (d) A description of performance measures that the
2 manufacturer will use on an annual basis to demonstrate to the
3 department that the program is meeting the 90% capture rate,
4 including, but not limited to, the number of mercury switches
5 collected, the amount of mercury collected, the number of motor
6 vehicles containing mercury switches, and the number of motor
7 vehicles processed for recycling.

8 (e) A plan for program financing that allocates costs among
9 manufacturers without placing additional burdens on dealers or
10 businesses dealing with end-of-life vehicles.

11 (3) The total cost of a program implemented under this
12 section, including, but not limited to, the cost of all of the
13 following, shall be borne by the manufacturer:

14 (a) Training materials and containers in which to transport
15 mercury switches to recycling, storage, or disposal facilities.

16 (b) Transporting, recycling, storage, and disposal of the
17 mercury switches in an environmentally sound manner.

18 (c) A minimum fee of at least \$1.00 paid to vehicle recyclers
19 for each mercury switch assembly or mercury pellet collected from
20 a motor vehicle.

21 (d) If the manufacturer and the department agree that the
22 department should administer all or part of the program,
23 compensation to the department at an agreed rate.

24 Sec. 17305. (1) Within 90 days after the effective date of
25 the amendatory act that added this part, every manufacturer of
26 motor vehicles sold in this state shall submit to the department,
27 individually or as part of a group, a plan for a program to

1 remove, collect, and recover mercury switches that meets the
2 requirements of section 17303.

3 (2) On receipt of a plan submitted under subsection (1), the
4 department shall solicit comments from the public as to the
5 probable efficacy of the plan to achieve the 90% capture rate and
6 prevent mercury releases.

7 (3) Within 90 days of receipt of a plan under section 17303,
8 the department shall determine whether the plan complies with
9 this section and approve or reject the plan. If the plan is
10 approved, the manufacturer shall begin to implement it as soon as
11 practicable. If the plan is rejected, the department shall
12 inform the manufacturer that submitted the plan of the reasons
13 for rejection. A manufacturer whose plan is rejected shall
14 submit a new plan within 30 days. If the plan is approved in
15 part and rejected in part, the department shall specify which
16 parts of the plan are approved and should be implemented as soon
17 as practicable, which parts of the plan are rejected and should
18 be resubmitted within 30 days, and the reasons for rejection of
19 the parts of the plan that are rejected.

20 (4) The department shall review a plan approved under this
21 section 3 years after the original date of approval and every 3
22 years after the first review, and may require modifications to
23 the plan as appropriate.

24 (5) The department shall make available to the public and to
25 the legislature the annual reports provided by manufacturers
26 under section 17307 to demonstrate the efficacy of switch
27 collection.

1 Sec. 17307. Beginning January 1, 2006 and on January 1 of
2 each year after 2006, a manufacturer subject to sections 17303
3 and 17305 shall, individually or as part of a group, annually
4 report to the department concerning the performance of the
5 manufacturer's program. The report shall include, but not be
6 limited to, both of the following:

7 (a) A detailed description and documentation of the capture
8 rate achieved and the way in which the mercury was recycled or
9 otherwise appropriately managed.

10 (b) A plan to implement additional or alternative actions if
11 necessary to improve the capture rate.

12 Sec. 17309. (1) A vehicle recycler shall remove all of the
13 mercury switches in a motor vehicle before the vehicle is
14 dismantled or crushed.

15 (2) It is unlawful for a person to represent that a mercury
16 switch has been removed from a motor vehicle or portion of a
17 motor vehicle being sold, given, or otherwise conveyed for
18 recycling, dismantling, or crushing if the mercury switch has not
19 been removed.

20 Sec. 17311. (1) Except as provided in subsection (2), after
21 January 1, 2007, a new motor vehicle offered for sale in this
22 state shall not contain a mercury-added component.

23 (2) Subsection (1) does not apply if it is necessary, for
24 other than marketing purposes, to incorporate a mercury-added
25 component into a motor vehicle to comply with federal or state
26 health or safety requirements or for purposes of national
27 security. To qualify for an exemption under this subsection, a

1 manufacturer shall submit a written application to the department
2 describing both of the following:

3 (a) The need and legal basis for the exemption, including
4 documentation that there is no technically feasible alternative
5 to the use of mercury in the component and that there is no
6 comparable mercury-free component available at reasonable cost to
7 meet the health or safety requirement or the national security
8 purpose.

9 (b) How the manufacturer will ensure that a system will exist
10 for the removal, collection, and recovery of the mercury-added
11 component at the end of the vehicle's useful life, and how the
12 manufacturer will fund the system.

13 (3) The department shall, after giving public notice and
14 soliciting public comment, approve or reject an application for
15 an exemption under subsection (2) within 90 days. The department
16 shall only approve an application for an exemption under
17 subsection (2) if the manufacturer clearly demonstrates both of
18 the following:

19 (a) The mercury-added component will substantially increase
20 public health and safety considering the life-cycle impacts of
21 the mercury use.

22 (b) There is no technically feasible alternative to the use
23 of mercury in the component.

24 (4) An exemption granted under subsection (2) is valid for a
25 period not to exceed 2 years and may be renewed for additional
26 periods not to exceed 2 years each.

27 (5) A motor vehicle that has been granted an exemption under

1 subsection (2) shall be labeled by the manufacturer in a manner
2 that clearly informs a purchaser that mercury is present in the
3 vehicle and that the mercury-added component may not be disposed
4 of or placed in a waste stream destined for disposal until the
5 mercury is removed or reused, recovered, properly disposed of as
6 a hazardous waste, or otherwise managed to ensure that the
7 mercury does not become mixed with other solid waste. The label
8 shall identify the component with sufficient detail so that it
9 may be readily located for removal. The label shall be placed on
10 the doorpost and be constructed of materials that are
11 sufficiently durable to remain legible for the anticipated useful
12 life of the vehicle.

13 Sec. 17313. (1) A manufacturer shall design a motor vehicle
14 or a motor vehicle component in a manner that accomplishes both
15 of the following:

16 (a) To the maximum extent practicable, eliminates hazardous
17 substances from the vehicle.

18 (b) Makes the vehicle or component capable of being recycled
19 in a safe, cost effective, and environmentally sound manner,
20 using existing technologies and infrastructures.

21 (2) If a motor vehicle is found to present environmental
22 risks that make it uneconomical to recycle, the manufacturer
23 shall make appropriate design or manufacturing changes.

24 Sec. 17315. Compliance with this part does not exempt a
25 person from compliance with any other law.