

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Provide for the Safe Collection and Recycling of Mercury-containing Lighting

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1672 is enacted to read:

§ 1672. Mercury-added lamps

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Manufacturer" means a person who owns the brand name of a mercury-added lamp or a person who serves as the importer or domestic distributor of a mercury-added lamp if the brand-name owner is located outside of the United States.

B. "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process, including, but not limited to, linear fluorescent, compact fluorescent, black light, high-intensity discharge, ultraviolet and neon lamps.

C. "Person" means any individual, corporation, partnership, cooperative, association, firm, sole proprietorship, government agency or other entity.

D. "RoHS directive" means Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, on the restriction of certain hazardous substances in electrical and electronic equipment, as amended thereafter by the Commission of European Communities.

2. Mercury content standards. The department shall adopt, implement and enforce mercury content standards for lamps sold or distributed in the State. The standards must be adopted as routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A. The standards must be consistent with standards established for lamps sold in the European Union pursuant to the RoHS directive.

A. After January 1, 2010, a person may not manufacture a lamp for sale in the State that does not meet the mercury content standards adopted by the department.

B. After January 1, 2010, a person may not sell or offer for sale in the State a lamp if:

(1) The lamp being sold or offered for sale was manufactured on or after January 1, 2010 and does not meet the mercury content standards adopted by the department;

(2) The manufacturer of the lamp sold or being offered for sale fails to provide the documentation to the department required by paragraph C; or

(3) The manufacturer of the lamp being sold or offered for sale does not provide the certification required in paragraph D.

C. At the request of the department, a manufacturer of a lamp sold or being offered for sale in the State shall submit within 28 days of the date of the request technical documents or other information showing that the manufacturer's lamp sold or offered for sale in the State complies with the mercury content standards adopted by the department.

D. A manufacturer of a lamp sold or being offered for sale in the State shall:

(1) Provide certification to a person who sells or offers for sale that manufacturer's lamp. The certification must attest that the lamp meets the mercury content standards adopted by the department; or

(2) Prominently display the certification required by subparagraph (1) on the shipping container or on the packaging of the lamp.

3. Mercury-added lamp purchasing. When making purchasing decisions the Department of Administrative and Financial Services, in consultation with the department and the Public Utilities Commission, shall request information on mercury content, energy use and lamp life from potential suppliers and shall prefer lamps with the lowest possible mercury content and, when applicable, energy-efficient, mercury-free digital lighting. Information obtained on mercury content, energy use and lamp life must be made available by the Department of Administrative and Financial Services to other purchasers who purchase a large number of mercury-added lamps.

4. Manufacturer recycling programs for household mercury-added lamps. Effective January 1, 2011, each manufacturer offering for sale or distributing mercury-added lamps in the State shall individually or collectively implement a department-approved program for the recycling of mercury-added lamps sold or distributed in the State for household use.

A. The recycling program required under this subsection must include:

(1) Convenient collection locations located throughout the State where residents can drop off their household lamps without cost;

(2) Handling and recycling equipment and practices in compliance with the universal waste rules adopted pursuant to section 1319-O, subsection 1, paragraph F and all other applicable requirements;

(3) Effective education and outreach, including, but not limited to, point-of-purchase signs and other materials provided to retail establishments without cost; and

(4) An annual report to the department on the number of mercury-added lamps recycled under the manufacturer's program, the estimated percentage of mercury-added lamps available for recycling that were recycled under the program and the methodology for estimating the number of mercury-added lamps available for recycling, an evaluation of the effectiveness of the recycling program, recommendations for increasing the number of lamps recycled under the recycling program and an accounting of the costs associated with administering and implementing the recycling program.

B. A manufacturer required to implement a recycling program under this subsection shall submit its proposed recycling program for department review and approval. The department shall solicit public comment on the proposed program before approving or denying the program.

C. Beginning April 1, 2011, a manufacturer not in compliance with this section is prohibited from offering any mercury-added lamp for final sale in the State or distributing any mercury-added lamp in the State. A manufacturer not in compliance with this section shall provide support to retailers to ensure the manufacturer's mercury-added lamps are not offered for sale, sold at final sale or distributed in the State.

D. Beginning April 1, 2011, a retailer may not offer for final sale a mercury-added lamp produced by a manufacturer not in compliance with this section. The department shall notify retailers of the manufacturers of mercury-added lamps not in compliance with this section.

E. If on January 1, 2013 or during a subsequent biennial reporting period under this paragraph the rate at which household mercury-added lamps sold in the State are recycled under manufacturer recycling programs pursuant to this section is not at least 75%, the department may require modifications to the programs. Beginning April 15, 2013, and biennially thereafter, the department shall calculate the percentage of mercury-added lamps recycled from households and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the progress made in achieving the recycling goals, any modifications to the manufacturer recycling programs it intends to make to improve mercury-added lamp recycling rates and any recommendations for statutory changes needed to facilitate mercury-added lamp collection and recycling.

F. The department may determine that a manufacturer's recycling program is in compliance with paragraph A, subparagraphs (1), (2) and (4) for the collection of compact fluorescent lamps from households if the manufacturer provides adequate financial support for the collection and recycling of such lamps to a conservation program established pursuant to Title 35-A, section 3211-A and implemented by the Public Utilities Commission.

Sec. 2. Recycling program submission date for existing manufacturers. A manufacturer subject to the Maine Revised Statutes, Title 38, section 1672 and in existence on the effective date of this Act shall submit its proposed recycling program pursuant to Title 38, section 1672, subsection 4, paragraph B by January 1, 2010.

Sec. 3. Report on recycling of mercury-added lamps from businesses. The Department of Environmental Protection shall submit a report by January 1, 2010 to the Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps from businesses, including, but not limited to, linear fluorescent lamps. The report must include:

1. An estimate of the number of mercury-added lamps recycled and the recycling rate for mercury-added lamps from businesses over each of the last 3 years;
2. A comprehensive strategy for improving lamp recycling rates;
3. Any legislation necessary to implement the strategy proposed in the report; and
4. The availability of nonmercury lamps to replace mercury-added lamps.

The Joint Standing Committee on Natural Resources may submit legislation to the Second Regular Session of the 124th Legislature to implement recommendations included in the report.

SUMMARY

This bill requires each manufacturer of mercury-added lamps to implement a mercury-added lamp recycling program for the recycling of the mercury-added lamps sold or distributed in the State for household use. It authorizes the Department of Environmental Protection to adopt mercury content standards established for lamps sold in the European Union pursuant to the RoHS directive. It directs the Department of Administrative and Financial Services to prefer lamps with the lowest possible mercury content when making purchasing decisions. It requires the Department of Environmental Protection to submit a report by January 1, 2010 to the Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps from businesses, and it authorizes the committee to submit legislation to implement the recommendations in the report.