

By: Burnam

H.B. No. 3422

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment of a program for the collection,
3 transportation, recycling, and disposal of mercury-containing
4 lights.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 361, Health and Safety Code, is amended
7 by adding Subchapter P to read as follows:

8 SUBCHAPTER P. MERCURY-CONTAINING LIGHT COLLECTION PROGRAM

9 Sec. 361.471. DEFINITIONS. In this subchapter:

10 (1) "Manufacturer" means a business concern that owns
11 or owned a name brand of mercury-containing lights sold in this
12 state.

13 (2) "Mercury-containing light" means a lamp, bulb,
14 tube, or other device containing mercury that provides functional
15 illumination.

16 (3) "Out-of-service mercury-containing light" means a
17 mercury-containing light that is removed from a building in this
18 state and is intended to be discarded.

19 (4) "Retailer" means a person who sells lights
20 directly to a consumer through a selling or distribution mechanism,
21 including a sale using a catalog or the Internet.

22 (5) "Wholesaler" means a person engaged in the
23 distribution and wholesale selling of lighting components to
24 contractors who install lighting components and whose total

1 wholesale sales account for 80 percent or more of total sales. The
2 term does not include a manufacturer.

3 Sec. 361.472. MANUFACTURER PROGRAMS FOR MERCURY-CONTAINING
4 LIGHTS. (a) A manufacturer shall establish, finance, manage, and
5 maintain a program for the collection, transportation, recycling,
6 and disposal of out-of-service mercury-containing lights in
7 accordance with this subchapter, either individually or
8 collectively with other manufacturers. Each manufacturer is
9 responsible for collecting, handling, transporting, and recycling
10 or disposing of out-of-service mercury-containing lights through a
11 program in accordance with this subchapter and rules adopted under
12 this subchapter.

13 (b) A manufacturer or a group of manufacturers operating a
14 program collectively may contract with a retailer to provide a
15 point of collection for out-of-service mercury-containing lights,
16 either in the retailer's place of business or elsewhere.

17 Sec. 361.473. COLLECTION BINS. A manufacturer's program
18 established under Section 361.472 shall:

19 (1) provide collection bins for out-of-service
20 mercury-containing light collection to:

21 (A) wholesalers, at a cost not to exceed \$25; and

22 (B) a local government that requests a collection
23 bin for use at a household hazardous waste collection facility or a
24 household hazardous waste event, at no cost to the local
25 government; and

26 (2) arrange to:

27 (A) collect the contents of the collection bins

1 provided under this section for proper handling, recycling, or
2 disposal; or

3 (B) pay the costs of shipping the contents of the
4 collection bins provided under this section for proper handling,
5 recycling, or disposal.

6 Sec. 361.474. PROGRAM EDUCATION AND OUTREACH. (a) A
7 manufacturer's program established under Section 361.472, in
8 accordance with commission rules, shall:

9 (1) make a public service announcement promoting the
10 proper management of out-of-service mercury-containing lights and
11 provide copies of the announcement to the commission for its use and
12 promotion;

13 (2) establish and provide to the commission the
14 address of a public Internet website through which visitors can
15 easily download templates of educational materials;

16 (3) to encourage greater participation in the proper
17 management of out-of-service mercury-containing lights throughout
18 this state, undertake to engage other stakeholders, including
19 waste, demolition, and lighting organizations and appropriate
20 state agencies and local governments;

21 (4) work with electric utilities in this state that
22 are participating in demand response programs involving lighting
23 replacement to encourage the utilities' participation in the
24 collection and proper management of out-of-service
25 mercury-containing lights;

26 (5) encourage electric utilities to include an
27 educational insert in customers' utility bills;

1 (6) encourage wholesalers to support and participate
2 in educating customers on the proper management of out-of-service
3 mercury-containing lights;

4 (7) encourage retailers' support and participation in
5 educating consumers on the proper management of out-of-service
6 mercury-containing lights; and

7 (8) undertake other educational or outreach efforts
8 required by commission rule.

9 (b) This section expires January 1, 2013.

10 Sec. 361.475. EDUCATIONAL AND OUTREACH MATERIALS. (a) A
11 manufacturer's program established under Section 361.472, in
12 accordance with commission rules, shall develop, update as
13 necessary, and make available to retailers, wholesalers, and
14 household hazardous waste programs educational and other outreach
15 materials for:

16 (1) lighting contractors and associations of those
17 contractors;

18 (2) electric utilities and local governments that
19 provide utility services or household hazardous waste programs; and

20 (3) homeowners.

21 (b) Materials developed and made available under Subsection
22 (a) must include at least one of the following:

23 (1) signs designed for prominent, easily visible
24 display for viewing by consumers and contractors;

25 (2) written materials and templates of materials for
26 reproduction by retailers and wholesalers to be provided to the
27 consumer at the time of purchase or delivery of a light that include

1 information on:

2 (A) prohibited methods of disposing of
3 mercury-containing lights;

4 (B) proper management of out-of-service
5 mercury-containing lights; and

6 (C) locations where out-of-service
7 mercury-containing lights are collected for proper handling,
8 recycling, or disposal;

9 (3) advertising or promotional materials that inform
10 about out-of-service mercury-containing light collection
11 opportunities; or

12 (4) materials to be used in direct communications with
13 the consumer and contractor at the time a mercury-containing light
14 is purchased.

15 Sec. 361.476. COLLECTION INCENTIVES AND EDUCATION. A
16 manufacturer's program established under Section 361.472 shall
17 provide incentives and education to contractors, service
18 technicians, and homeowners to encourage the return of
19 out-of-service mercury-containing lights to established points of
20 collection.

21 Sec. 361.477. PROGRESS REPORT. On or before September 1 of
22 each year, a manufacturer, through a program established under
23 Section 361.472, shall submit to the commission and post on the
24 program's Internet website a report that includes:

25 (1) the number of out-of-service mercury-containing
26 lights the program collected in this state during the preceding
27 calendar year;

1 (2) the estimated total amount of mercury contained in
2 the out-of-service mercury-containing lights the program collected
3 during the preceding calendar year;

4 (3) an evaluation of the effectiveness of the program;

5 (4) beginning with the report due September 1, 2014, a
6 comparison to the performance standards for collection established
7 under Section 361.485;

8 (5) an accounting of the program's administrative
9 costs that includes:

10 (A) for a nonprofit organization's program, a
11 copy of Internal Revenue Service Form 990; or

12 (B) for a for-profit organization's program,
13 independently audited financial statements detailing revenues and
14 a full accounting of administrative costs incurred;

15 (6) a description of the outreach strategies employed
16 to increase participation and collection rates;

17 (7) examples of outreach and educational materials
18 used;

19 (8) names and locations of all participating points of
20 collection;

21 (9) the number of out-of-service mercury-containing
22 lights collected at each point of collection;

23 (10) the Internet website address at which the annual
24 report may be viewed online;

25 (11) a description of how the collected out-of-service
26 mercury-containing lights were managed; and

27 (12) modifications that the manufacturer is proposing

1 to make in its collection and recycling program.

2 Sec. 361.478. LIGHT SALES PROHIBITED; LIST OF NONCOMPLIANT
3 MANUFACTURERS. (a) A person may not sell or offer for sale in this
4 state a light that is produced by a manufacturer that has been
5 listed on the commission's Internet website as a noncompliant
6 manufacturer for 120 or more consecutive days.

7 (b) On January 1 and July 1 of each year, the commission
8 shall post a list on its Internet website of manufacturers that are
9 not in compliance with this subchapter.

10 (c) A wholesaler or retailer that distributes or sells
11 mercury-containing lights shall monitor the commission's Internet
12 website to determine whether the sale of a manufacturer's lights is
13 in compliance with this subchapter.

14 Sec. 361.479. WHOLESALER DUTY: POINT OF COLLECTION. A
15 wholesaler that conducts business from a physical location in this
16 state shall provide at each of its places of business in this state
17 a point of collection for out-of-service mercury-containing
18 lights.

19 Sec. 361.480. DISTRIBUTION OF INFORMATION ON POINTS OF
20 COLLECTION. A retailer or wholesaler that distributes new lights
21 by mail to buyers in this state shall include with the sale of the
22 new light an Internet website address and toll-free telephone
23 number with instructions on obtaining a prepaid mail-in label that
24 a consumer may use to send an out-of-service mercury-containing
25 light to a point of collection for mercury-containing lights.

26 Sec. 361.481. WHOLESALER DISTRIBUTION OF EDUCATIONAL AND
27 OUTREACH MATERIALS. A wholesaler shall distribute the educational

1 and outreach materials developed and made available under Section
2 361.475 to its customers.

3 Sec. 361.482. CONTRACTOR RESPONSIBILITIES. A contractor
4 who installs lighting components and who removes a
5 mercury-containing light shall handle the light in accordance with
6 rules adopted under this subchapter and take the light to a point of
7 collection with a collection bin operating in accordance with those
8 rules.

9 Sec. 361.483. RESPONSIBILITIES OF PERSON WHO DEMOLISHES
10 BUILDING. A person who demolishes a building shall remove any
11 mercury-containing lights from the building before demolition in
12 accordance with all applicable rules adopted under this subchapter
13 and take the lights to a point of collection that is authorized to
14 collect out-of-service mercury-containing lights.

15 Sec. 361.484. COMMISSION ORDER. The commission may order a
16 manufacturer or group of manufacturers operating a program to
17 revise the program and to take other necessary actions to comply
18 with this subchapter.

19 Sec. 361.485. COMMISSION PERFORMANCE STANDARDS. The
20 commission by rule shall:

21 (1) develop performance standards that specify
22 collection rates expressed as a percentage of out-of-service
23 mercury-containing lights becoming waste annually; and

24 (2) establish a methodology to estimate the number of
25 out-of-service mercury-containing lights becoming waste annually.

26 Sec. 361.486. SURVEY REGARDING MERCURY-CONTAINING LIGHTS
27 THAT BECOME WASTE. (a) Not later than March 1, 2010, a

1 manufacturer or group of manufacturers operating a program shall
2 present to the commission a survey plan and methodology for a survey
3 to provide statistically valid data on the number of
4 mercury-containing lights made by the manufacturer or group of
5 manufacturers that become waste annually in this state.

6 (b) The manufacturer or group of manufacturers shall
7 complete the survey not later than December 1, 2010, and shall
8 present all of the survey information to the commission not later
9 than December 31, 2010.

10 (c) This section expires January 1, 2011.

11 Sec. 361.487. DISPOSAL BAN. A manufacturer, wholesaler, or
12 retailer may not knowingly or intentionally offer for disposal at a
13 municipal solid waste landfill or incinerator a mercury-containing
14 light.

15 SECTION 2. (a) A manufacturer's program established under
16 Section 361.472, Health and Safety Code, as added by this Act, is
17 required to provide collection bins as provided by Section 361.473,
18 Health and Safety Code, as added by this Act, only on and after July
19 1, 2010.

20 (b) A manufacturer's program established under Section
21 361.472, Health and Safety Code, as added by this Act, is required
22 to perform the duties provided by Section 361.474, Health and
23 Safety Code, as added by this Act, only on and after July 1, 2010.

24 (c) A manufacturer's program established under Section
25 361.472, Health and Safety Code, as added by this Act, is required
26 to develop, update, and make available educational and outreach
27 materials as provided by Section 361.475, Health and Safety Code,

1 as added by this Act, only on and after July 1, 2010.

2 (d) The first progress report required by Section 361.477,
3 Health and Safety Code, as added by this Act, is due September 1,
4 2011.

5 (e) The Texas Commission on Environmental Quality shall
6 begin posting the commission's list of noncompliant manufacturers
7 as provided by Section 361.478, Health and Safety Code, as added by
8 this Act, on July 1, 2010.

9 (f) The Texas Commission on Environmental Quality shall
10 adopt the commission's performance standards and methodology
11 required by Section 361.485, Health and Safety Code, as added by
12 this Act, not later than January 1, 2013.

13 SECTION 3. This Act takes effect September 1, 2009.