

HOUSE No. 4207

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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;

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

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

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

(f) Respective inspectors of buildings shall require the prior removal of all mercury-added lamps located in areas of a structure or building to be demolished under an issued permit, provided such lamp can be accessed safely for removal. All such removed lamps to be discarded shall be properly disposed in accordance with applicable law and regulation.

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

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

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.

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

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

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

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

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

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

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

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

(4) No manufacturer shall sell, offer to sell, or distribute a mercury-added lamp in the Commonwealth, on or after August 1, 2013, unless such manufacturer implements and maintains a mercury added lamp collection and recycling program under the provisions of this section. After the effective date of this act, the implementation of such program shall not be required until August 1, 2013; notwithstanding, the provisions of subparagraph (a). A manufacturer that

100 seeks to implement a collection and recycling program under this subsection by August 1, 2013,
101 shall submit its proposed plan as provided under the provisions of paragraph (5).

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

(6) The department shall promulgate reasonable regulations related to the manufacturer
requirements under this subsection. When the goal of this subsection is achieved or when

otherwise necessary, the commissioner of the department of environmental protection shall have the authority to waive any requirement under this subsection of a mercury-added lamp manufacturer.

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

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

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

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

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

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

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

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

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