

1 H.94

2 Introduced by Representatives Martin of Springfield, Aswad of Burlington,  
3 Bray of New Haven, Clerkin of Hartford, Courcelle of Rutland  
4 City, Deen of Westminster, Devereux of Mount Holly, Evans of  
5 Essex, French of Shrewsbury, Head of S. Burlington, Jewett of  
6 Ripton, Lenes of Shelburne, Lippert of Hinesburg, Marek of  
7 Newfane, McCullough of Williston, McNeil of Rutland Town,  
8 Orr of Charlotte, Partridge of Windham, Pellett of Chester,  
9 Potter of Clarendon, Shand of Weathersfield and Zuckerman of  
10 Burlington

11 Referred to Committee on

12 Date:

13 Subject: Conservation; mercury management; mercury-added lamps

14 Statement of purpose: This bill proposes to require manufacturers of  
15 mercury-added lamps to establish a comprehensive recycling program for such  
16 lamps. The bill would also ban the disposal of a mercury-added lamp in a  
17 solid waste landfill beginning January 1, 2011. The bill would expand the  
18 scope of the mercury advisory committee to address all toxic substances.

19 An act relating to the collection and recycling of mercury-added lamps

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 10 V.S.A. § 7102 is amended to read:

3 § 7102. DEFINITIONS

4 As used in this chapter:

5 (1) “Agency” means the Vermont agency of natural resources.

6 (2) “Elemental mercury” means the chemical symbol Hg. Elemental Hg  
7 is a silvery-white liquid (at room temperature) with an atomic number of 80  
8 and an atomic mass of 200.57.

9 (3) “Fabricated mercury-added product” means a product that consists  
10 of a combination of individual components that combine to make a single unit,  
11 including mercury-added measuring devices, lamps, and switches.

12 (4) “Formulated mercury-added product” means a product that is sold as  
13 a consistent mixture of chemicals to which mercury or a mercury compound  
14 has been intentionally added in order to provide a specific characteristic,  
15 appearance, or quality, or to perform a specific function, or for any other  
16 reason. This includes laboratory chemicals, cleaning products, cosmetics,  
17 pharmaceuticals, and coating materials. For the purposes of this chapter,  
18 formulated mercury-added product does not include pharmaceuticals,  
19 pharmaceutical products, biological products, or any substance that may be  
20 lawfully sold over the counter without a prescription under the federal Food,  
21 Drug and Cosmetics Act, 21 U.S.C. §§ 301 et seq. “Biological product” means

1 a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component  
2 or derivative, allergenic product or an analogous product, or asphenamine (a  
3 derivative of arsphenamine) or any other trivalent organic arsenic compound  
4 used for the prevention, treatment, or cure of a disease or condition of human  
5 beings.

6 (5) "Large appliance" includes the following items: refrigerators,  
7 washing machines, clothes dryers, ranges, water heaters, dishwashers, freezers,  
8 microwave ovens, air conditioners, portable heaters, and other similar domestic  
9 and commercial appliances as may be identified by the agency by rule.

10 (6)(A) "Manufacturer" means any person, firm, association, partnership,  
11 corporation, governmental entity, organization, combination, or joint venture  
12 that (i) produces a mercury-added product, or (ii) serves as an importer or  
13 domestic distributor of a mercury-added product produced outside the United  
14 States.

15 (B) This definition shall not apply to retailers for whom importing is  
16 not their primary business.

17 (C) In the case of a multi-component mercury-added product, the  
18 manufacturer is the last manufacturer to produce or assemble the product.

19 (D) In the case of mercury-containing thermostats, the manufacturer  
20 is the original equipment manufacturer.

1                   (E) In the case of mercury-added lamps, the manufacturer shall  
2                   include the person who owns the brand name of the mercury-added lamp.

3                   (7) “Mercury-added component” means a mercury-added product that is  
4                   incorporated into another product to form a fabricated mercury-added product,  
5                   including electrical switches, relays, and lamps.

6                   (8) “Mercury-added novelty” means a mercury-added product intended  
7                   mainly for personal or household enjoyment or adornment. Mercury-added  
8                   novelties include items intended for use as practical jokes, figurines,  
9                   adornments, toys, games, cards, ornaments, yard statues and figures, candles,  
10                  jewelry, holiday decorations, items of apparel (including footwear), and similar  
11                  products.

12                  (9) “Mercury-added product” means a product, a commodity, a  
13                  chemical, a product with one or more components, or a product that cannot  
14                  function without the use of that component, that contains mercury or a mercury  
15                  compound intentionally added to the product, commodity, chemical, or  
16                  component in order to provide a specific characteristic, appearance, or quality,  
17                  or to perform a specific function, or for any other reason. These products  
18                  include formulated mercury-added products and fabricated mercury-added  
19                  products.

1           (10) “Mercury fever thermometer” means a mercury-added product that  
2 is used for measuring body temperature. This does not include a fever  
3 thermometer with a mercury-added button cell battery.

4           (11) “Motor vehicle” means a vehicle propelled by an internal  
5 combustion engine or an electric motor, such as an automobile, van, truck,  
6 motorized construction equipment, motorized recreational vehicle, motorcycle,  
7 or forklift.

8           (12) “End-of-life motor vehicle” means a motor vehicle that has not  
9 been intentionally flattened, crushed, shredded, or baled if sold, given, or  
10 otherwise conveyed to a motor vehicle recycler or scrap metal recycling  
11 facility for the purpose of recycling.

12           (13) “Mercury-added vehicle switch” means a capsule, commonly  
13 known as a bullet, containing mercury, that is part of a convenience light  
14 switch assembly for motor vehicle trunks and hoods or is part of the anti-lock  
15 brake system.

16           (14) “Motor vehicle recycler” means an individual or entity engaged in  
17 the business of acquiring, dismantling, parts recycling, or destroying six or  
18 more end-of-life motor vehicles in a year.

19           (15) “Scrap metal recycling facility” means a facility at a fixed location  
20 that uses equipment to process and refabricate scrap metal into prepared grades  
21 and principally produces scrap iron, steel, or nonferrous metallic scrap for sale.

1           (16) “Mercury-containing thermostat” means a product or device that  
2           uses a mercury switch to sense and control room temperature through  
3           communication with heating, ventilating, or air-conditioning equipment.

4           “Mercury-containing thermostat” includes thermostats used to sense and  
5           control room temperature in residential, commercial, industrial, and other  
6           buildings but does not include a thermostat used to sense and control  
7           temperature as part of a manufacturing process.

8           (17) “Person” means any individual, corporation, partnership,  
9           cooperative, association, firm, sole proprietorship, governmental agency, or  
10          other entity.

11          (18) “Thermostat retailer” means a person who sells thermostats of any  
12          kind directly to homeowners or other nonprofessionals through any selling or  
13          distribution mechanism, including but not limited to sales using the Internet or  
14          catalogues. A retailer may also be a wholesaler if it meets the definition of  
15          wholesaler.

16          (19) “Thermostat wholesaler” means a person that is engaged in the  
17          distribution and wholesale sale of heating, ventilation, and air-conditioning  
18          components to contractors who install heating, ventilation, and air-  
19          conditioning components.

20          (20) “Mercury-added lamp” means an electric lamp to which mercury or  
21          mercury compounds are intentionally added during the manufacturing process.

1 including: linear or circular fluorescent lamps; compact fluorescent lamps;  
2 high intensity discharge lamps; specialty lamps such as black lights or tanning  
3 lamps; and neon lamps.

4 (21) “Mercury-added lamp wholesaler” means a person that is engaged  
5 in the distribution and wholesale sale of mercury-added lamps for installation  
6 in industrial, commercial, or office buildings or for installation as outdoor  
7 lighting.

8 Sec. 2. 10 V.S.A. § 7117 is added to read:

9 § 7117. MERCURY-ADDED LAMPS

10 (a)(1) Manufacturer responsibility. Each manufacturer that has offered for  
11 final sale, sold at final sale, or distributed a mercury-added lamp in Vermont  
12 shall, individually or collectively:

13 (A) Not later than January 1, 2010, submit to the agency of natural  
14 resources for approval a program for the recycling of mercury-added lamps  
15 sold or distributed in Vermont for household use. The agency of natural  
16 resources shall solicit public comment on a program proposed by a  
17 manufacturer prior to approval or denial of the program. A recycling program  
18 required under this subsection shall:

19 (B) Include and identify convenient collection locations throughout  
20 the state where mercury-added lamps can be deposited for recycling at no  
21 charge to a household consumer.

1           (C) Identify and require handling and recycling equipment and  
2 practices that comply with all applicable laws.

3           (D) Include an effective education and outreach program, including  
4 signs or warnings displayed at the point of sale and informational materials  
5 provided to retail establishments that sell mercury-added lamps.

6           (E) Effective January 1, 2010, implement an agency of natural  
7 resources approved mercury-added lamp recycling program.

8           (2) Beginning April 1, 2011, a manufacturer that has offered for final  
9 sale, sold at final sale, or distributed a mercury-added lamp in Vermont that is  
10 not in compliance with this section shall not sell, offer for sale, or distribute  
11 any mercury-added lamp in Vermont. A manufacturer not in compliance with  
12 this section shall provide the necessary support to mercury-added lamp  
13 retailers to ensure the manufacturer's mercury-added lamps are not offered for  
14 sale, sold at final sale, or distributed in the state.

15           (3) Beginning in 2012, a manufacturer that has offered for final sale,  
16 sold at final sale, or distributed a mercury-added lamp in Vermont shall submit  
17 an annual report to the secretary by April 1 of each year that includes, at a  
18 minimum, the following:

19           (A) the number of lamps recycled under the program in the previous  
20 calendar year;

1           (B) the estimated number of the manufacturer's out-of-service  
2 mercury-added lamps available for recycling in the previous calendar year;

3           (C) the methodology for estimating the number of out-of-service  
4 mercury-added lamps available for recycling. A methodology for estimating  
5 the number of out-of-service mercury-added lamps shall be approved by the  
6 agency of natural resources following an opportunity for public review and  
7 comment;

8           (D) the number of mercury-added lamps recycled under the program;

9           (E) an evaluation of the effectiveness of the program;

10          (F) recommendations for increasing the number of lamps recycled  
11 under the program; and

12          (G) an accounting of the costs associated with administering and  
13 implementing the recycling program.

14          (c) Wholesaler responsibility. No mercury-added lamp wholesaler shall  
15 sell mercury-added lamps unless the wholesaler informs the purchaser in  
16 writing on the invoice or another separate document that the lamps contain  
17 mercury and that the lamps are prohibited from placement in a solid waste  
18 landfill or combustor. Retail establishments that incidentally sell  
19 mercury-added lamps are exempt from the requirements of this subsection.

20          (d) Retailer responsibility. A retail seller of a mercury-added lamp shall  
21 not offer for sale a mercury-added lamp produced by a manufacturer not in

1 compliance with this section. The agency of natural resources shall notify  
2 retailers of those manufacturers of mercury-added lamps deemed not in  
3 compliance with this section.

4 (e) Contractor responsibilities. Any contractor who removes  
5 mercury-added lamps shall inform the person for whom the work is being  
6 done:

7 (1) that a removed mercury-added lamp contains mercury; and

8 (2) how the removed mercury-added lamp should be discarded.

9 (f) Recycling goals. The following recycling goals are established for the  
10 mercury-added lamp recycling program:

11 (1) 30 percent of the out-of-service mercury-added lamps in 2011;

12 (2) 40 percent of the out-of-service mercury lamps in 2012;

13 (3) 50 percent of the out-of-service mercury lamps in 2013;

14 (4) 60 percent of the out-of-service mercury lamps in 2014; and

15 (5) 70 percent of the out-of-service mercury-added lamps in the year  
16 2015 and thereafter.

17 (g) Compact fluorescent bulb impact fee. The agency of natural resources  
18 may determine that a manufacturer's mercury-added lamp recycling program  
19 complies with the requirements of this section for the collection of compact  
20 fluorescent lamps from households if the manufacturer provides adequate  
21 financial support to a solid waste management district, efficiency program,

1 agency of natural resources collection program, or other collection program for  
2 the collection and recycling of such lamps. Such a program may include  
3 financial support to one or more solid waste management districts, provided  
4 the program also includes sufficient retailer collection locations as appropriate  
5 to meet the convenient collection location requirements of subdivision  
6 (a)(1)(B) of this section. The secretary of natural resources, in consultation  
7 with interested parties, shall adopt by procedure a method for calculating the  
8 monetary amount for each manufacturer that would constitute adequate  
9 financial support under this subsection.

10 (h) Rulemaking. The secretary of natural resources may adopt rules to  
11 implement the requirements of this section. In adopting rules under this  
12 subsection, the secretary may adopt the California mercury content standards  
13 for lamps. If one or more categories of lamps are not covered by the California  
14 mercury content standards, the secretary may adopt rules minimizing the  
15 mercury content of lamps within such categories, including adoption of a  
16 no-mercury standard when non-mercury alternatives are available at  
17 comparable cost.

18 (i)(1) Agency of natural resources report. The agency of natural resources  
19 shall report annually by January 15 to the house fish, wildlife and water  
20 resources committee and the senate committee on natural resources and energy

1 on the success of the mercury-added lamp recycling programs in the state. The  
2 report shall include:

3 (A) An estimate of the number of lamps recycled and the recycling  
4 rate for mercury-added lamps from small businesses over each of the last three  
5 years;

6 (B) Proposed nonbinding goals for the recycling of mercury-added  
7 lamps from small businesses reasonably consistent with the goals in this  
8 section for households;

9 (C) A comprehensive strategy for meeting the proposed recycling  
10 goals; and

11 (D) Any proposed statutory changes recommended as necessary to  
12 implement the strategy proposed in the report.

13 (2) Beginning in calendar year 2012, the annual report required under  
14 this section shall include an evaluation of the availability of nonmercury lamps  
15 to replace mercury-added lamps and any legislative changes as appropriate to  
16 reduce mercury use in lamps.

17 (3) Beginning in January 2013, the annual report required under this  
18 subsection shall include an evaluation of the efficacy of the household  
19 mercury-added lamp recycling program. The evaluation shall include the  
20 progress made in achieving the recycling goals for the program; recommended  
21 modifications to manufacturer programs in order to improve lamp recycling

1 rates; and recommendations for any statutory changes needed to facilitate  
2 mercury-added lamp collection and recycling.

3 Sec. 3. 29 V.S.A. § 906a is added to read:

4 § 906a. MERCURY-ADDED LAMPS

5 (a) For the purposes of this section, the definitions of 10 V.S.A. § 7102  
6 shall apply.

7 (b) It is the policy of the state to promote the manufacture of lamps  
8 containing the lowest possible mercury content while maximizing energy  
9 efficiency and lamp life by purchasing lamps with such attributes and  
10 providing information to other large purchasers or lamps.

11 (c) When purchasing lamps for use in state buildings, the commissioner of  
12 buildings and general services shall request from potential suppliers  
13 information about mercury content, energy use, and lamp life. The  
14 commissioner of buildings and general services shall purchase lamps with the  
15 lowest possible mercury content. The commissioner of buildings and general  
16 services shall make available to the public information obtained under this  
17 subsection on the mercury content, energy use, and lamp life of lamps.

18 Sec. 4. 19 V.S.A. § 26 is amended to read:

19 § 26. PURCHASE AND SALE OF PROPERTY

20 The agency may purchase or lease any land, taking conveyance in the name  
21 of the state, when land is needed in connection with the layout, construction,

1 repair, and maintenance of any state highway, or the reconstruction of the  
2 highway. The agency may acquire or construct buildings necessary for use in  
3 connection with this work. When any of the land or the buildings acquired or  
4 the buildings constructed become no longer necessary for these purposes, the  
5 agency may sell or lease the property. The proceeds from any sale or lease  
6 shall be deposited in the transportation fund and, unless otherwise required by  
7 federal law or regulation, shall be credited to transportation buildings to be  
8 used for transportation building projects previously authorized by the general  
9 assembly. When purchasing lighting or lamps, the agency shall comply with  
10 those requirements that the commissioner of buildings and general services is  
11 subject to under 29 V.S.A. § 906a.

12 Sec. 5. 10 V.S.A. § 7113 is amended to read:

13 § 7113. ADVISORY COMMITTEE ON ~~MERCURY POLLUTION~~ TOXIC  
14 SUBSTANCES

15 (a) There is created an advisory committee on ~~mercury pollution~~ toxic  
16 substances to consist of one member of the house of representatives, appointed  
17 by the speaker; one member of the senate, appointed by the committee on  
18 committees; the secretary of natural resources or the secretary's designee; the  
19 commissioner of ~~fish and wildlife~~ the department of health or the  
20 commissioner's designee; ~~the attorney general or his or her designee~~; and the  
21 following persons, as appointed by the governor: one representative of ~~an~~

1 ~~industry that manufactures consumer products that contain mercury; one public~~  
2 ~~health specialist; one hospital representative; one representative of the Abenaki~~  
3 ~~Self Help Association, Inc.; the Vermont manufacturing community; one~~  
4 ~~representative of a college or university located in Vermont; one representative~~  
5 ~~of the Vermont medical community; one representative of the Vermont retail~~  
6 ~~community; one representative of a statewide consumer interest group; one~~  
7 ~~representative of a statewide environmental group; one representative of the~~  
8 ~~agency of agriculture, food and markets or the agricultural community with~~  
9 ~~knowledge of the state pesticides program; one toxicologist; one representative~~  
10 ~~of a municipal solid waste management district; and one scientist who is~~  
11 ~~knowledgeable on matters related to mercury contamination~~ toxic substances.  
12 The advisory committee shall advise the general assembly, the executive  
13 branch, and the general public on matters relating to the ~~prevention and~~  
14 ~~cleanup of mercury pollution and the latest science on the remediation of~~  
15 ~~mercury pollution~~ regulation, abatement, and monitoring of toxic substances in  
16 products that are manufactured, sold, or distributed in Vermont or that could  
17 impact the environment or public health in Vermont. The advisory committee  
18 may consult with national, state, and international authorities for guidance on  
19 chemicals of high concern to public health and the environment. By January 15  
20 of each year, the advisory committee ~~will report~~ shall submit to the general  
21 assembly ~~updated information on~~ the following information:

1           ~~(1) The extent of mercury contamination in the soil, waters, air, and~~  
2 ~~biota of Vermont.~~

3           ~~(2) The extent of any health risk from mercury contamination in~~  
4 ~~Vermont, especially to pregnant women, children of the Abenaki Self Help~~  
5 ~~Association, Inc., and other communities that use fish as a major source of~~  
6 ~~food.~~

7           ~~(3) Methods available for minimizing risk of further contamination or~~  
8 ~~increased health risk to the Vermont public.~~

9           ~~(4) Potential costs of minimizing further risk and recommendations of~~  
10 ~~how to raise funds necessary to reduce contamination and minimize risk of~~  
11 ~~mercury related problems in Vermont.~~

12           ~~(5) Coordination needed with other states to address effectively mercury~~  
13 ~~contamination.~~

14           ~~(6) The effectiveness of the established programs, including~~  
15 ~~manufacturer based reverse distribution systems for in state collection,~~  
16 ~~subsequent transportation, and subsequent recycling of mercury from waste~~  
17 ~~mercury added products, and recommendations for altering the programs to~~  
18 ~~make them more effective.~~

19           ~~(7) Ways to reduce the extent to which solid waste produced within the~~  
20 ~~state is incinerated at incinerators, regardless of location, that fail to use the~~  
21 ~~best available technology in scrubbing and filtering emissions from the~~

1 ~~incinerator stack~~ A list of chemicals of high concern to public health and the  
2 environment and to at-risk populations such as children, the elderly, and  
3 pregnant women. The list may include any substance in a gaseous, liquid, or  
4 solid state that is a known or suspected carcinogen, mutagen, reproductive  
5 toxic, endocrine disruptor, or persistent bioaccumulative toxin. The list shall  
6 include mercury and those substances listed pursuant to Title III, Section 313  
7 of the Superfund Amendments and Reauthorization Act of 1986;

8 (2) Recommended actions or strategies to reduce health risks or harm to  
9 the environment from exposure to a chemical of high concern. Such actions or  
10 strategies may include restriction or prohibition on the distribution, sale, or use  
11 of a chemical of high concern in Vermont; public disclosure requirements for  
12 manufacturers of chemicals of high concern or manufacturers of products  
13 containing chemicals of high concern; and promotion of safer alternative  
14 chemicals;

15 (3) Potential costs of minimizing further risk of exposure to a chemical  
16 of high concern; and

17 (4) Recommendations for how to raise funds needed to minimize the  
18 risk of exposure to a chemical of high concern.

19 (b) The advisory committee shall be ~~terminated on January 1, 2010, unless~~  
20 extended by the general assembly entitled to services from staff at the agency  
21 of natural resources and the department of health.

1       Sec. 6. EFFECTIVE DATE

2           This act shall take effect on July 1, 2009, except that Secs. 3 (purchasing of  
3           lighting by the department of building and general services) and 4 (purchasing  
4           of lighting by the agency of transportation) of this act shall take effect July 1,  
5           2010.