

## FORTY THIRD DAY

House Chamber, Olympia, Monday, February 22, 2010

The House was called to order at 10:00 a.m. by the Speaker (Representative Moeller presiding). The Clerk called the roll and a quorum was present.

The Speaker assumed the chair.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Rachael Redjou and Clarice Hunter. The Speaker led the Chamber in the Pledge of Allegiance. The prayer was offered by Reverend Eusebio Elizondo, Auxiliary Bishop, Seattle Archdiocese.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

### RESOLUTION

**HOUSE RESOLUTION NO. 4672, by Representatives Kenney, Chopp, Hunt, Conway, Santos, Pettigrew, Hasegawa, Haigh, Dickerson, Lias, Springer, Morrell, Goodman, Wood, Driscoll, Blake, Clibborn, Nelson, Quall, Pedersen, Sells, Maxwell, Darneille, Simpson, Van De Wege, Orwall, Hunter, McCoy, Ormsby, Carlyle, Kelley, Appleton, O'Brien, Takko, Sullivan, Roberts, Dunshee, Hudgins, Probst, Chase, Eddy, Williams, Green, Seaquist, Finn, Moeller, White, Cody, Upthegrove, Kagi, Rolfes, Jacks, Ericks, Morris, Miloscia, Kessler, Flannigan, and Campbell**

WHEREAS, It is the policy of the Washington State Legislature to recognize excellence in all fields of advocacy and endeavor; and

WHEREAS, Tomás Villanueva has exhibited true excellence throughout his personal, professional, and public life, through his lengthy years of service; and

WHEREAS, Tomás Villanueva was born in Monterrey, Nuevo León, Mexico and moved to Texas, Ohio, Oregon, Idaho, and Arizona and settled in Toppenish, Washington with his family in 1958; and

WHEREAS, Tomás Villanueva married his friend and confidant, Hortencia Villanueva, in 1969, and together, they were blessed with seven children; and

WHEREAS, Tomás Villanueva began his work in manual field labor, but soon emerged as a community leader, peacefully advocating for farm workers rights and equal protection alongside César Chávez; and

WHEREAS, Tomás Villanueva is credited with helping to start the Yakima Valley Farm Workers Clinic, which works to improve the life of farm workers and the underserved, to strengthen their health and that of their communities; and

WHEREAS, Tomás Villanueva has had a passion for promoting elementary and higher education and schools for all, focusing in on the children of low-income and farm-working families; and

WHEREAS, Tomás Villanueva worked as a community liaison for the State's Department of Social and Health Services from 1994 through 2006; and

WHEREAS, Tomás Villanueva served as President of the United Farm Workers of Washington from 1992 through 1996, and has further held numerous positions on committees and boards since the late 1960's; and

WHEREAS, Tomás Villanueva is an ideal citizen of the State of Washington, for he has shown that it is possible to be passionate for a cause, and to find solutions and agreements without ever ignoring professional etiquette, or using violence and anger; and

WHEREAS, Tomás Villanueva has performed his work as an activist solely as a volunteer, and never for personal or monetary gain; and

WHEREAS, Tomás Villanueva has been and continues to be a champion for Human Rights, Labor Rights, Migrant Farm Workers Rights, Education Rights, and Child Labor Laws and a passionate and dedicated citizen to the cause of equality; and

WHEREAS, Tomás Villanueva has been and continues to be a bright minded and tender hearted individual, who has inspired many to stand up for what is fair and right, and speaks passionately for the equality and protection of others, and in doing so he has inspired laws to be passed and people to unite to replace greed, prejudice, and injustice, with acts of kindness, humility, and grace;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives of the State of Washington honor Tomás Villanueva for his numerous years of dedicated service, his personal and professional integrity, and his dedication and faithfulness to the values of freedoms and rights for which he as so assiduously worked; and

BE IT FURTHER RESOLVED, That a copy of this Resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Tomás Villanueva.

Representative Kenny moved adoption of House Resolution No. 4672.

Representatives Kenney, Roach and Hunt spoke in favor of the adoption of the resolution.

HOUSE RESOLUTION NO. 4672 was adopted.

### SPEAKER'S PRIVILEGE

The Speaker introduced Tomás Villanueva and his wife, Hortencia, and asked the Chamber to acknowledge them.

### RESOLUTION

**HOUSE RESOLUTION NO. 4678, by Representatives Orcutt, Herrera, Wallace, Probst, Jacks, Takko, Moeller, and Blake**

WHEREAS, We are here today to honor the life and life works of a true humanitarian; and

WHEREAS, Margaret Leona Haller was born May 27, 1917, in Cowlitz County 14 miles east of Woodland, Washington in an old homestead which is now 160 feet under the waters of Lake Merwin; and

WHEREAS, Margaret attended Marble Creek Grade School which is also now under the waters of Lake Merwin. The Marble Creek Grade School enrollment dropped below the state minimum to just three students, and Margaret had to be sent to another school closer to Woodland; and

WHEREAS, Margaret was only a sixth grade student when she joined with seven seventh grade students at Clover Valley; and

WHEREAS, During the Great Depression, Margaret was too young to get a job so she attended Woodland High School for five years and took every subject available. She was called the "baby of the class" and graduated at the age of 16 as one of the top five students in a class of 45; and

WHEREAS, After high school Margaret worked at a bulb farm from 1934 through 1935 and worked in the strawberry fields and doing housework; and

WHEREAS, Margaret Haller married Walter Colf in January 1941 and together they operated the Etna Store for eight years, and she helped run the family farm with 22 acres of strawberries and cows; and

WHEREAS, Margaret helped her husband when he started logging and operated a saw mill, and she even worked in the woods as a whistle-punk who sent the signals from the woods to the operator of the steam donkey which pulled the logs out of the woods and loaded them onto trucks; and

WHEREAS, Margaret lost her husband to a logging accident in 1962 leaving her a widow with three daughters and two sons; and

WHEREAS, Margaret was an officer and member of the Green Mountain School Booster Club, and PTA President at La Center for two years, where she chaired many PTA committees. She was very active in the community, organizing drives for the Red Cross, cancer, muscular dystrophy, March of Dimes, and causes for children with disabilities. She also worked on election boards and voter registration drives for several years; and

WHEREAS, Margaret served as secretary-treasurer of the Hayes/Etna Telephone Company for eight years from 1943 through 1951. She is a precinct committee officer, and belongs to both local and national Republican women's groups. She also served as the Clark County Commissioner for the Hayes-Garder Cemetery District No. 5 for 45 years; and

WHEREAS, Margaret Colf married Edwin Hepola in October 1963, but was widowed again in 1977, when Edwin died from a heart attack; and

WHEREAS, Margaret has contributed monetarily and through her leadership to funding and completing many heritage projects in both Cowlitz and Clark counties; and

WHEREAS, From the age of 83 to the age of 91 Margaret Colf Hepola battled with a Federal agency to protect her family's farmland - and won; and

WHEREAS, Margaret Colf Hepola is 93 years old, yet remains active in a multitude of service activities and groups continuously and concurrently and has been honored by state and local officials and groups including those in Cowlitz and Clark counties; and

WHEREAS, Margaret Colf Hepola's life philosophy is that "You only take out of this world, when you leave it, what you have given away and the kindness you have shown to others. The most important thing you can give others is your time and concern for their welfare."

NOW, THEREFORE, BE IT RESOLVED, That the state of Washington and the House of Representatives honor and celebrate the life and service of Margaret Colf Hepola for her years of perseverance and community activism; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted to Margaret Colf Hepola.

HOUSE RESOLUTION NO. 4678 was adopted.

There being no objection, the House advanced to the fifth order of business.

## REPORTS OF STANDING COMMITTEES

February 17, 2010

ESSB 5543 Prime Sponsor, Committee on Environment, Water & Energy: Reducing the release of mercury into the environment. Reported by Committee on Environmental Health

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that:

(1) Mercury is an essential component of many energy efficient lights. Improper disposal methods will lead to mercury releases that threaten the environment and harm human health. Spent mercury lighting is a hard to collect waste product that is appropriate for product stewardship;

(2) Convenient and environmentally sound product stewardship programs for mercury-containing lights that include collecting, transporting, and recycling mercury-containing lights will help protect Washington's environment and the health of state residents;

(3) The purpose of this act is to achieve a statewide goal of recycling all end-of-life mercury-containing lights by 2020 through expanded public education, a uniform statewide requirement to recycle all mercury-containing lights, and the development of a comprehensive, safe, and convenient collection system that includes use of residential curbside collection programs, mail-back containers, increased support for household hazardous waste facilities, and a network of additional collection locations;

(4) Product producers must play a significant role in financing no-cost collection and processing programs for mercury-containing lights; and

(5) Providers of premium collection services such as residential curbside and mail-back programs may charge a fee to cover the collection costs for these more convenient forms of collection.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Brand" means a name, symbol, word, or mark that identifies a product, rather than its components, and attributes the product to the owner of the brand as the producer.

(2) "Covered entities" means:

(a) A single-family or a multifamily household generator and persons that deliver no more than fifteen mercury-containing lights to registered collectors for a product stewardship program during a ninety-day period; and

(b) A single-family or a multifamily household generator and persons that utilize a registered residential curbside collection program or a mail-back program for collection of mercury-containing lights and that discards no more than fifteen mercury-containing lights into those programs during a ninety-day period.

(3) "Collection" or "collect" means, except for persons involved in mail-back programs:

(a) The activity of accumulating any amount of mercury-containing lights at a location other than the location where the lights are used by covered entities, and includes curbside collection activities, household hazardous waste facilities, and other registered drop-off locations; and

(b) The activity of transporting mercury-containing lights in the state, where the transporter is not a generator of unwanted mercury-containing lights, to a location for purposes of accumulation.

(4) "Department" means the department of ecology.

(5) "Final disposition" means the point beyond which no further processing takes place and materials from mercury-containing lights have been transformed for direct use as a feedstock in producing new products, or disposed of or managed in permitted facilities.

(6) "Hazardous substances" or "hazardous materials" means those substances or materials identified by rules adopted under chapter 70.105 RCW.

(7) "Mail-back program" means the use of a prepaid postage container with mercury vapor barrier packaging that is used for the collection and recycling of mercury-containing lights from covered entities as part of a product stewardship program and is transported by the United States postal service or a common carrier.

(8) "Mercury vapor barrier packaging" means sealable containers that are specifically designed for the storage, handling, and transport of mercury-containing lights in order to prevent the escape of mercury into the environment by volatilization or any other means, and that meet the requirements for transporting by the United States postal service or a common carrier.

(9) "Mercury-containing lights" means lamps, bulbs, tubes, or other devices that contain mercury and provide functional illumination in homes, businesses, and outdoor stationary fixtures.

(10) "Orphan product" means a mercury-containing light that lacks a producer's brand, or for which the producer is no longer in business and has no successor in interest, or that bears a brand for which the department cannot identify an owner.

(11) "Person" means a sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, cooperative, or other legal entity located within or outside Washington state.

(12) "Processing" means recovering materials from unwanted products for use as feedstock in new products. Processing must occur at permitted facilities.

(13) "Producer" means a person that:

(a) Has or had legal ownership of the brand, brand name, or cobrand of a mercury-containing light sold in or into Washington state, except for persons whose primary business is retail sales;

(b) Imports or has imported mercury-containing lights branded by a producer that meets the requirements of (a) of this subsection and where that producer has no physical presence in the United States;

(c) If (a) and (b) of this subsection do not apply, makes or made an unbranded mercury-containing light that is sold or has been sold in or into Washington state; or

(d)(i) Sells or sold at wholesale or retail a mercury-containing light; (ii) does not have legal ownership of the brand; and (iii) elects to fulfill the responsibilities of the producer for that product.

(14) "Product stewardship" means a requirement for a producer of mercury-containing lights to manage and reduce adverse safety, health, and environmental impacts of the product throughout its life cycle, including financing and providing for the collection, transporting, reusing, recycling, processing, and final disposition of their products.

(15) "Product stewardship plan" or "plan" means a detailed plan describing the manner in which a product stewardship program will be implemented.

(16) "Product stewardship program" or "program" means the methods, systems, and services financed and provided by producers of mercury-containing lights generated by covered entities that addresses product stewardship and includes collecting, transporting, reusing, recycling, processing, and final disposition

of unwanted mercury-containing lights, including a fair share of orphan products.

(17) "Recovery" means the collection and transportation of unwanted mercury-containing lights under this chapter.

(18)(a) "Recycling" means transforming or remanufacturing unwanted products into usable or marketable materials for use other than landfill disposal or incineration.

(b) "Recycling" does not include energy recovery or energy generation by means of combusting unwanted products with or without other waste.

(19) "Reporting period" means the period commencing January 1st and ending December 31st in the same calendar year.

(20) "Residuals" means nonrecyclable materials left over from processing an unwanted product.

(21) "Retailer" means a person who offers mercury-containing lights for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(22)(a) "Reuse" means a change in ownership of a mercury-containing light or its components, parts, packaging, or shipping materials for use in the same manner and purpose for which it was originally purchased, or for use again, as in shipping materials, by the generator of the shipping materials.

(b) "Reuse" does not include dismantling of products for the purpose of recycling.

(23) "Stakeholder" means a person who may have an interest in or be affected by a product stewardship program.

(24) "Stewardship organization" means an organization designated by a producer or group of producers to act as an agent on behalf of each producer to operate a product stewardship program.

(25) "Unwanted product" means a mercury-containing light no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

**NEW SECTION. Sec. 3.** (1) Every producer of mercury-containing lights sold in or into Washington state for residential use must fully finance and participate in a product stewardship program for that product, including the department's costs for administering and enforcing this chapter.

(2) Every producer must:

(a) Participate in a product stewardship program approved by the department and operated by a product stewardship organization contracted by the department. All producers must finance and participate in the plan operated by the product stewardship organization, unless the producer obtains department approval for an independent plan as described in (b) of this subsection; or

(b) Finance and operate, either individually or jointly with other producers, a product stewardship program approved by the department.

(3) A producer, group of producers, or product stewardship organization funded by producers must pay all administrative and operational costs associated with their program or programs, except for the collection costs associated with curbside and mail-back collection programs. For curbside and mail-back programs, a producer, group of producers, or product stewardship organization shall finance the costs of transporting mercury-containing lights from accumulation points and for processing mercury-containing lights collected by curbside and mail-back programs. For collection locations, including household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable locations, a producer, group of producers, or product stewardship organization shall finance the costs of collection, transportation, and processing of mercury-containing lights collected at the collection locations.

(4) Product stewardship programs shall collect unwanted mercury-containing lights delivered from covered entities for reuse, recycling, processing, or final disposition, and not charge a fee when lights are dropped off or delivered into the program.

(5) Product stewardship programs shall provide, at a minimum, no cost services in all cities in the state with populations greater than ten thousand and all counties of the state on an ongoing, year-round basis.

(6) All product stewardship programs operated under approved plans must recover their fair share of unwanted covered products as determined by the department.

(7) The department or its designee may inspect, audit, or review audits of processing and disposal facilities used to fulfill the requirements of a product stewardship program.

(8) No product stewardship program required under this chapter may use federal or state prison labor for processing unwanted products.

(9) Product stewardship programs for mercury-containing lights must be fully implemented by January 1, 2013.

**NEW SECTION. Sec. 4.** (1) A producer, group of producers, or product stewardship program submitting a proposed product stewardship plan under section 3(2)(b) of this act must submit that plan by January 1st of the year prior to the planned implementation.

(2) The department shall establish rules for plan content. Plans must include but are not limited to:

(a) All necessary information to inform the department about the plan operator and participating producers and their brands;

(b) The management and organization of the product stewardship program that will oversee the collection, transportation, and processing services;

(c) The identity of collection, transportation, and processing service providers, including a description of the consideration given to existing residential curbside collection infrastructure and mail-back systems as an appropriate collection mechanism;

(d) How the product stewardship program will seek to use businesses within the state, including transportation services, retailers, collection sites and services, existing curbside collection services, existing mail-back services, and processing facilities;

(e) A description of how the public will be informed about the recycling program;

(f) A description of the financing system required under section 5 of this act;

(g) How mercury and other hazardous substances will be handled for collection through final disposition;

(h) A public review and comment process; and

(i) Any other information deemed necessary by the department to ensure an effective mercury light product stewardship program that is in compliance with all applicable laws and rules.

(3) All plans submitted to the department must be made available for public review on the department's web site and at the department's headquarters.

(4) At least two years from the start of the product stewardship program and once every four years thereafter, a producer, group of producers, or product stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the department for review and approval according to rules adopted by the department.

(5) Each product stewardship program shall submit an annual report to the department describing the results of implementing their plan for the prior year. The department may adopt rules for reporting requirements. All reports submitted to the department must be made available for public review on the department's web site and at the department's headquarters.

**NEW SECTION. Sec. 5.** (1) All producers that sell mercury-containing lights in or into the state of Washington are responsible

for financing the mercury-containing light recycling program required by section 3 of this act.

(2) Each producer shall pay fifteen thousand dollars to the department to contract for a product stewardship program to be operated by a product stewardship organization. The department shall retain five thousand dollars of the fifteen thousand dollars for administration and enforcement costs.

(3) A producer or producers participating in an independent plan, as permitted under section 3(2)(b) of this act, must pay the full cost of operation. Each producer participating in an approved independent plan shall pay an annual fee of five thousand dollars to the department for administration and enforcement costs.

**NEW SECTION. Sec. 6.** (1) All mercury-containing lights collected in the state by product stewardship programs or other collection programs must be recycled and any process residuals must be managed in compliance with applicable laws.

(2) Mercury recovered from retorting must be recycled or placed in a properly permitted hazardous waste landfill, or placed in a properly permitted mercury repository.

**NEW SECTION. Sec. 7.** (1) Except for persons involved in registered mail-back programs, a person who collects unwanted mercury-containing lights in the state, receives funding through a product stewardship program for mercury-containing lights, and who is not a generator of unwanted mercury-containing lights must:

(a) Register with the department as a collector of unwanted mercury-containing lights. Until the department adopts rules for collectors, the collector must provide to the department the legal name of the person or entity owning and operating the collection location, the address and phone number of the collection location, and the name, address, and phone number of the individual responsible for operating the collection location and update any changes in this information within thirty days of the change;

(b) Maintain a spill and release response plan at the collection location that describes the materials, equipment, and procedures that will be used to respond to any mercury release from an unwanted mercury-containing light;

(c) Maintain a worker safety plan at the collection location that describes the handling of the unwanted mercury-containing lights at the collection location and measures that will be taken to protect worker health and safety; and

(d) Use packaging and shipping material that will minimize the release of mercury into the environment and minimize breakage and use mercury vapor barrier packaging if mercury-containing lights are transported by the United States postal service or a common carrier.

(2) A person who operates a curbside collection program or owns or operates a mail-back business participating in a product stewardship program for mercury-containing lights and uses the United States postal service or a common carrier for transport must register with the department and use mercury vapor barrier packaging for curbside collection and mail-back containers.

**NEW SECTION. Sec. 8.** Effective January 1, 2013:

(1) All persons, residents, government, commercial, industrial, and retail facilities and office buildings must recycle their end-of-life mercury-containing lights.

(2) No mercury-containing lights may knowingly be placed in waste containers for disposal at incinerators, waste to energy facilities, or landfills.

(3) No mercury-containing lights may knowingly be placed in a container for mixed recyclables unless there is a separate location or compartment for the mercury-containing lights that complies with local government collection standards or guidelines.

(4) No owner or operator of a solid waste facility may be found in violation of this section if the facility has posted in a

conspicuous location a sign stating that mercury-containing lights must be recycled and are not accepted for disposal.

(5) No solid waste collector may be found in violation of this section for mercury-containing lights placed in a disposal container by the generator of the mercury-containing light.

**NEW SECTION. Sec. 9.** As of January 1, 2013, no producer, wholesaler, retailer, electric utility, or other person may distribute, sell, or offer for sale mercury-containing lights for residential use to any person in this state unless the producer is participating in a product stewardship program under a plan approved by the department.

**NEW SECTION. Sec. 10.** (1) The department shall send a written warning and a copy of this chapter and any rules adopted to implement this chapter to a producer who is not participating in a product stewardship program approved by the department and whose mercury-containing lights are being sold in or into the state.

(2) A producer not participating in a product stewardship program approved by the department whose mercury-containing lights continue to be sold in or into the state sixty days after receiving a written warning from the department shall be assessed a penalty of up to one thousand dollars for each violation. A violation is one day of sales.

(3) If any producer fails to implement its approved plan, the department shall assess a penalty of up to five thousand dollars for the first violation along with notification that the producer must implement its plan within thirty days of the violation. After thirty days, any producer failing to implement their approved plan must be assessed a penalty of up to ten thousand dollars for the second and each subsequent violation. A subsequent violation occurs each thirty-day period that the producer fails to implement the approved plan.

(4) The department shall send a written warning to a producer that fails to submit a product stewardship plan, update or change the plan when required, or submit an annual report as required under this chapter. The written warning must include compliance requirements and notification that the requirements must be met within sixty days. If requirements are not met within sixty days, the producer will be assessed a ten thousand dollar penalty per day of noncompliance starting with the first day of notice of noncompliance.

(5) Penalties prescribed under this section must be reduced by fifty percent if the producer complies within thirty days of the second violation notice.

(6) A producer may appeal penalties prescribed under this section to the pollution control hearings board created under chapter 43.21B RCW.

**NEW SECTION. Sec. 11.** (1) The department shall provide on its web site a list of all producers participating in a product stewardship plan that the department has approved and a list of all producers the department has identified as noncompliant with this chapter and any rules adopted to implement this chapter.

(2) Product wholesalers, retailers, distributors, and electric utilities must check the department's web site or producer-provided written verification to determine if producers of products they are selling in or into the state are in compliance with this chapter.

(3) No one may distribute or sell mercury-containing lights in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter and rules adopted under this chapter.

(4) The department shall serve, or send with delivery confirmation, a written warning explaining the violation to any person known to be distributing or selling mercury-containing lights in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter and rules adopted under this chapter.

(5) Any person who continues to distribute or sell mercury-containing lights from a producer that is not participating in an approved product stewardship program sixty days after receiving a written warning from the department may be assessed a penalty two times the value of the products sold in violation of this chapter or five hundred dollars, whichever is greater. The penalty must be waived if the person verifies that the person has discontinued distribution or sales of mercury-containing lights within thirty days of the date the penalty is assessed. A retailer may appeal penalties to the pollution control hearings board.

(6) The department shall adopt rules to implement this section.

(7) A sale or purchase of mercury-containing lights as a casual or isolated sale as defined in RCW 82.04.040 is not subject to the provisions of this section.

(8) A person primarily engaged in the business of reuse and resale of a used mercury-containing light is not subject to the provisions of this section when selling used working mercury-containing lights, for use in the same manner and purpose for which it was originally purchased.

(9) In-state distributors, wholesalers, and retailers in possession of mercury-containing lights on the date that restrictions on the sale of the product become effective may exhaust their existing stock through sales to the public.

**NEW SECTION. Sec. 12.** All producers shall pay the department annual fees to cover the cost of administering and enforcing this chapter. The department may prioritize the work to implement this chapter if fees are not adequate to fund all costs of the program.

**NEW SECTION. Sec. 13.** The product stewardship programs account is created in the custody of the state treasurer. All funds received from producers under this chapter and penalties collected under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 14.** (1) The department may adopt rules necessary to implement, administer, and enforce this chapter.

(2) The department may adopt rules to establish performance standards for product stewardship programs and may establish administrative penalties for failure to meet the standards.

(3) By December 31, 2010, and annually thereafter until December 31, 2014, the department shall report to the appropriate committees of the legislature concerning the status of the product stewardship program and recommendations for changes to the provisions of this chapter.

(4) Beginning October 1, 2014, the department shall annually invite comments from local governments, communities, and citizens to report their satisfaction with services provided by product stewardship programs. This information must be used by the department to determine if the plan operator is meeting convenience requirements and in reviewing proposed updates or changes to product stewardship plans.

(5) Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the impacts of the requirements of this chapter on the availability or purchase of energy efficient lighting within the state. If the department determines that evidence shows the requirements of this chapter have resulted in negative impacts on the availability or purchase of energy efficient lighting in the state, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for changes to the provisions of this chapter.

(6) Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the availability of energy efficient nonmercury lighting to replace mercury-containing lighting within the state. If the department determines that evidence shows that energy efficient nonmercury-containing lighting is available and achieves similar energy savings as mercury lighting at similar cost, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for legislative changes to reduce mercury use in lighting.

(7) Beginning October 1, 2014, the department shall annually estimate the overall statewide recycling rate for mercury-containing lights and calculate that portion of the recycling rate attributable to the product stewardship program.

(8) The department may require submission of independent performance evaluations and report evaluations documenting the effectiveness of mercury vapor barrier packaging in preventing the escape of mercury into the environment. The department may restrict the use of packaging for which adequate documentation has not been provided. Restricted packaging may not be used in any product stewardship program required under this chapter.

**NEW SECTION. Sec. 15.** Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide such service itself or by contract under RCW 81.77.020.

**NEW SECTION. Sec. 16.** Nothing in this chapter changes the requirements of any entity regulated under chapter 70.105 RCW to comply with the requirements under that chapter.

**NEW SECTION. Sec. 17.** This chapter must be liberally construed to carry out its purposes and objectives.

**Sec. 18.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) (~~"Automotive mercury switch" includes a convenience switch, such as a switch for a trunk or hood light, and a mercury switch in antilock brake systems.~~) "Bulk mercury" includes any elemental, nonamalgamated mercury, regardless of volume quantity or weight and does not include products containing mercury collected for recycling or disposal at a permitted disposal facility.

(2) "Department" means the department of ecology.

(3) "Director" means the director of the department of ecology.

(4) "Health care facility" includes a hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

(5) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a mercury-added product or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multicomponent product containing mercury, the manufacturer is the last manufacturer to produce or assemble the product. If the multicomponent product or mercury-added product is produced in a foreign country, the manufacturer is the first importer or domestic distributor.

(6) "Mercury-added button-cell battery" means a button-cell battery to which the manufacturer intentionally introduces mercury for the operation of the battery.

(7) "Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited

to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel, and other similar products. Mercury-added novelty does not include games, toys, or products that require a button-cell or lithium battery, liquid crystal display screens, or a lamp that contains mercury.

(8) "Mercury-added product" means a product, commodity, or chemical, or a product with a component that contains mercury or a mercury compound intentionally added to the product, commodity, or chemical in order to provide a specific characteristic, appearance, or quality, or to perform a specific function, or for any other reason. Mercury-added products include those products listed in the interstate mercury education and reduction clearinghouse mercury-added products database, but are not limited to, mercury thermometers, mercury thermostats, mercury barometers, lamps, and mercury switches (~~(in motor vehicles))~~ or relays.

(9) "Mercury manometer" means a mercury-added product that is used for measuring blood pressure.

(10) "Mercury thermometer" means a mercury-added product that is used for measuring temperature.

(11) "Retailer" means a retailer of a mercury-added product.

(12) "Switch" means any device, which may be referred to as a switch, sensor, valve, probe, control, transponder, or any other apparatus, that directly regulates or controls the flow of electricity, gas, or other compounds, such as relays or transponders. "Switch" includes all components of the unit necessary to perform its flow control function. "Automotive mercury switch" includes a convenience switch, such as a switch for a trunk or hood light, and a mercury switch in antilock brake systems. "Utility switch" includes, but is not limited to, all devices that open or close an electrical circuit, or a liquid or gas valve. "Utility relay" includes, but is not limited to, all products or devices that open or close electrical contacts to control the operation of other devices in the same or other electrical circuit.

(13) "Wholesaler" means a wholesaler of a mercury-added product.

**Sec. 19.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to read as follows:

(1) Effective January 1, 2006, no person may sell, offer for sale, or distribute for sale or use in this state a mercury-added novelty. A manufacturer of mercury-added novelties must notify all retailers that sell the product about the provisions of this section and how to properly dispose of any remaining mercury-added novelty inventory.

(2)(a) Effective January 1, 2006, no person may sell, offer for sale, or distribute for sale or use in this state a manometer used to measure blood pressure or a thermometer that contains mercury. This subsection (2)(a) does not apply to:

(i) An electronic thermometer with a button-cell battery containing mercury;

(ii) A thermometer that contains mercury and that is used for food research and development or food processing, including meat, dairy products, and pet food processing;

(iii) A thermometer that contains mercury and that is a component of an animal agriculture climate control system or industrial measurement system or for veterinary medicine until such a time as the system is replaced or a nonmercury component for the system or application is available;

(iv) A thermometer or manometer that contains mercury that is used for calibration of other thermometers, manometers, apparatus, or equipment, unless a nonmercury calibration standard is approved for the application by the national institute of standards and technology;

(v) A thermometer that is provided by prescription. A manufacturer of a mercury thermometer shall supply clear

instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur; or

(vi) A manometer or thermometer sold or distributed to a hospital, or a health care facility controlled by a hospital, if the hospital has adopted a plan for mercury reduction consistent with the goals of the mercury chemical action plan developed by the department under section 302, chapter 371, Laws of 2002.

(b) A manufacturer of thermometers that contain mercury must notify all retailers that sell the product about the provisions of this section and how to properly dispose of any remaining thermometer inventory.

(3) Effective January 1, 2006, no person may sell, install, or reinstall a commercial or residential thermostat that contains mercury unless the manufacturer of the thermostat conducts or participates in a thermostat recovery or recycling program designed to assist contractors in the proper disposal of thermostats that contain mercury in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource conservation and recovery act.

(4) No person may sell, offer for sale, or distribute for sale or use in this state a motor vehicle manufactured after January 1, 2006, if the motor vehicle contains an automotive mercury switch.

(5) Nothing in this section restricts the ability of a manufacturer, importer, or domestic distributor from transporting products through the state, or storing products in the state for later distribution outside the state.

(6) Effective June 30, 2012, the sale or purchase and delivery of bulk mercury is prohibited, including sales through the internet or sales by private parties. However, the prohibition in this subsection does not apply to immediate dangerous waste recycling facilities or treatment, storage, and disposal facilities as approved by the department and sales to research facilities, or industrial facilities that provide products or services to entities exempted from this chapter. The facilities described in this subsection must submit an inventory of their purchase and use of bulk mercury to the department on an annual basis, as well as any mercury waste generated from such actions.

NEW SECTION. Sec. 20. Sections 1 through 17 and 21 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Campbell, Chair; Chase, Vice Chair; Shea, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Dickerson; Dunshee; Finn; Hudgins and Rolfes.

Referred to Committee on General Government Appropriations.

February 17, 2010

SSB 6248

Prime Sponsor, Committee on Health & Long-Term Care: Concerning the use of bisphenol A. Reported by Committee on Environmental Health

MAJORITY recommendation: Do pass as amended.

On page 1, after line 11, insert the following:

"(3) "Sports bottle" means a resealable, reusable container, sixty-four ounces or less in size, that is designed or intended primarily to be filled with a liquid or beverage for consumption from the container, and is sold or distributed at retail without containing any liquid or beverage."

On page 1, line 12, after "Sec. 2." insert "(1)"

On page 1, line 14, after "state" strike "any of the following: Any" and insert ", any"

On page 2, after line 3, insert the following:

"(2) Beginning July 1, 2012, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state, sports bottles that contain bisphenol A."

Signed by Representatives Campbell, Chair; Chase, Vice Chair; Shea, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Dickerson; Dunshee; Finn; Hudgins and Rolfes.

Referred to Committee on General Government Appropriations.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

The Speaker called upon Representative Moeller to preside.

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 9:55 a.m., February 23, 2010, the 44th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

4672 Tomás Villanueva  
    Introduced ..... 1  
    Adopted ..... 1  
4678 Margaret Leona Haller  
    Adopted ..... 2  
5543-S  
    Committee Report ..... 2  
6248-S  
    Committee Report ..... 6  
SPEAKER OF THE HOUSE  
    Speaker’s Privilege Tomás Villanueva ..... 1