

Senate Bill 550

By: Senators Thomas of the 54th, Johnson of the 1st, Balfour of the 9th, Meyer von Bremen of the 12th, Hamrick of the 30th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste
2 management, so as to provide for a collection and recovery program for mercury switches
3 removed from end-of-life vehicles in this state; to provide a short title; to provide for
4 legislative purpose; to define certain terms; to provide for mercury minimization plans; to
5 provide for review and approval of such plans; to provide for removal of mercury switches
6 in accordance with such plans; to provide for reports; to provide for rules and regulations;
7 to provide for penalties and enforcement; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste
11 management, is amended by striking reserved Article 4 and inserting in lieu thereof the
12 following:

13 "ARTICLE 4

14 12-8-100.

15 This article shall be known and may be cited as the 'Mercury Switch Removal Act of 2006.'

16 12-8-101.

17 The purpose of this article is to reduce the quantity of mercury in the environment by
18 removing mercury switches from end-of-life vehicles and by creating a collection and
19 recovery program for mercury switches removed from end-of-life vehicles in the State of
20 Georgia.

21 12-8-102.

22 As used in this article, the term:

- 1 (1) 'Capture rate' means the annual removal, collection, and recovery of mercury
2 switches as a percentage of the total number of domestic end-of-life vehicles processed.
- 3 (2) 'Director' means the director of the division.
- 4 (3) 'Division' means the Environmental Protection Division of the department.
- 5 (4) 'End-of-life vehicle' means a vehicle that is sold, given, or otherwise conveyed to a
6 vehicle recycler or scrap recycling facility for the purpose of recycling.
- 7 (5) 'Manufacturer' means a person, firm, association, partnership, corporation,
8 governmental entity, organization, combination, or joint venture that is the last person in
9 the production or assembly process of a new vehicle which utilizes mercury switches or,
10 in the case of an imported vehicle, the importer or domestic distributor of the vehicle.
- 11 (6) 'Mercury minimization plan' means a plan for removing, collecting, and recovering
12 mercury switches from end-of-life vehicles that is prepared pursuant to this article.
- 13 (7) 'Mercury switch' means each convenience light switch assembly containing a
14 mercury capsule, commonly known as a 'bullet,' that is installed in a vehicle.
- 15 (8) 'Person' means any individual, corporation, company, firm, partnership, association,
16 trust, joint-stock company or trust, venture, or municipal, state, or federal government or
17 agency or any other legal entity, however organized.
- 18 (9) 'Scrap recycling facility' means a fixed location where machinery and equipment are
19 utilized for processing and manufacturing scrap metal into prepared grades and whose
20 principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for
21 remelting purposes.
- 22 (10) 'Vehicle' means any passenger automobile or passenger car, station wagon, truck,
23 van, or sport utility vehicle with a gross vehicle weight rating of less than 12,000 pounds.
- 24 (11) 'Vehicle recycler' means any individual or entity engaged in the business of
25 acquiring, dismantling, or destroying six or more end-of-life vehicles in a calendar year
26 for the primary purpose of resale of their parts.

27 12-8-103.

- 28 (a) Within 90 days after the effective date of this article, each manufacturer of vehicles
29 sold within this state, individually or as part of a group, shall develop in consultation with
30 the division a mercury minimization plan prepared pursuant to this Code section and
31 submit the mercury minimization plan to the director for review and approval pursuant to
32 this article.
- 33 (b) The mercury minimization plan prepared and submitted pursuant to this Code section
34 shall include at a minimum the following:

- 1 (1)(A)(i) Information identifying the makes, models, and years of vehicles, including
2 current or anticipated future production models, that may contain one or more
3 mercury switches;
- 4 (ii) A description of the mercury switches;
- 5 (iii) A system to mark vehicles to be processed for shredding or crushing to indicate
6 presence or absence of mercury switches;
- 7 (iv) The location of such mercury switches; and
- 8 (v) The safe and environmentally sound methods for removal of mercury switches
9 from end-of-life vehicles.
- 10 (B) To the extent a manufacturer is uncertain as to the content of a switch installed
11 during the manufacture of a vehicle, the mercury minimization plan shall presume that
12 the switch is a mercury switch;
- 13 (2) Educational materials to assist a vehicle recycler or a scrap recycling facility in
14 undertaking a safe and environmentally sound method for the removal of the mercury
15 switches from end-of-life vehicles, including information on the hazards related to
16 mercury and the proper handling of mercury;
- 17 (3) A proposal for the method of storage or disposal of the mercury switches, including
18 the method of packaging and shipping mercury switches to the manufacturer or its agent
19 or contractor for transfer to authorized recycling, storage, or disposal facilities;
- 20 (4) A proposal for the storage of mercury switches collected and recovered from
21 end-of-life vehicles by the manufacturer or its agent or contractor if environmentally
22 appropriate management technologies are not available; and
- 23 (5) A plan for implementing and financing the system in accordance with this article.
- 24 (c) To the extent practicable, a mercury minimization plan shall utilize the existing
25 end-of-life vehicle recycling infrastructure. If the existing end-of-life vehicle recycling
26 infrastructure is not utilized, the mercury minimization plan shall include the reasons for
27 establishing a separate infrastructure.
- 28 (d)(1) A mercury minimization plan shall provide for the financing of the removal,
29 collection, and recovery system for mercury switches installed in vehicles manufactured
30 by the manufacturer and its predecessors and affiliates as provided in this article.
- 31 (2) Such costs shall be borne by the manufacturers of vehicles sold in this state, so as to
32 ensure that additional financial burdens are not placed on automobile dealers or
33 businesses dealing with end-of-life vehicles. The manufacturers shall develop a method
34 that ensures the prompt payment to vehicle recyclers, scrap recycling facilities, and the
35 division for costs associated with mercury switch removal. Costs shall include, but not
36 be limited to, the following:

1 (A) Five dollars for each mercury switch removed by a vehicle recycler or a scrap
2 recycling facility pursuant to this article as partial compensation for the labor and other
3 costs incurred by a vehicle recycler in the removal of the mercury switch;

4 (B) One dollar for each mercury switch removed by a vehicle recycler or by a scrap
5 recycling facility pursuant to this article as partial compensation to the division for costs
6 incurred in administering and enforcing the provisions of this article;

7 (C) Packaging in which to transport mercury switches to the manufacturer or its agent
8 or contractor for transfer to authorized recycling, storage, or disposal facilities;

9 (D) Shipping of mercury switches by the manufacturer or its agent or contractor to
10 recycling, storage, or disposal facilities;

11 (E) Recycling, storage, or disposal of the mercury switches;

12 (F) The preparation and distribution to vehicle recyclers and scrap recycling facilities
13 of the educational materials required pursuant to this article; and

14 (G) Maintenance of all appropriate record-keeping systems by the manufacturer.

15 (e) Within 30 days after the effective date of this article, each manufacturer of vehicles
16 sold within this state, individually or as part of a group, shall provide to vehicle recyclers
17 and scrap recycling facilities containers suitable for storing mercury switches until such
18 time that vehicle recyclers and scrap recycling facilities can be reimbursed pursuant to this
19 article.

20 (f) No mercury minimization plan may require that vehicle recyclers or scrap recycling
21 facilities segregate switches separately according to each motor vehicle model or to each
22 manufacturer from which the switches are removed.

23 (g) Manufacturers of vehicles sold within this state shall provide vehicle recyclers or scrap
24 recycling facilities with reimbursement for each mercury switch in the amount established
25 pursuant to this Code section regardless of when such switches were removed from the
26 vehicles, if the vehicle recyclers or scrap recycling facilities maintain the records required
27 by this article.

28 (h) Manufacturers shall indemnify, defend, and hold harmless vehicle recyclers and scrap
29 recycling facilities for any liabilities arising from the release of the mercury from the
30 mercury-added components after the components are transferred free on board to the
31 manufacturer or its agent or contractor.

32 12-8-104.

33 (a)(1) Within 120 days after receipt of a mercury minimization plan, the director shall
34 approve, disapprove, or conditionally approve the entire mercury minimization plan. The
35 director may solicit input from representatives of vehicle recyclers, scrap recycling
36 facilities, and other interested parties as the director deems appropriate.

1 (2)(A) If the entire mercury minimization plan is approved, the manufacturer shall
2 begin implementation within 30 days after receipt of approval or as otherwise agreed
3 to by the director.

4 (B) If the entire mercury minimization plan is disapproved, the director shall inform
5 the manufacturer as to the reasons for the disapproval. The manufacturer shall have 30
6 days thereafter to submit a new mercury minimization plan consistent with the
7 director's comments.

8 (3)(A) The director may approve those parts of a mercury minimization plan that meet
9 the requirements of this Code section and disapprove the parts that do not comply with
10 the requirements of this Code section.

11 (B) The manufacturer shall implement the approved parts of the mercury minimization
12 plan within 30 days after receipt of approval or as otherwise agreed to by the director
13 and submit a revised mercury minimization plan for the disapproved parts within 30
14 days after receipt of notification of the disapproval of the director.

15 (C) The director shall review and approve, conditionally approve, or disapprove a
16 revised mercury minimization plan within 30 days after receipt.

17 (4)(A) If at the conclusion of the time period of 120 days after receipt of a mercury
18 minimization plan the director has neither approved nor disapproved the mercury
19 minimization plan pursuant to subparagraph (A) or (B) of paragraph (2) of this
20 subsection, the mercury minimization plan shall be considered to be conditionally
21 approved.

22 (B) Subject to any modifications required by the director, a manufacturer shall
23 implement a conditionally approved mercury minimization plan within 30 days after
24 receipt of approval or as otherwise agreed to by the director.

25 (b) At the conclusion of a time period 240 days after the effective date of this article, the
26 director shall reserve the right to complete, on behalf of a manufacturer, and issue an
27 approved plan or any portion of a plan that has not been approved pursuant to this Code
28 section.

29 (c)(1) The director may review a mercury minimization plan approved pursuant to this
30 Code section and request modifications to the plan at any time upon a finding that the
31 approved mercury minimization plan is deficient or not accomplishing the purposes set
32 out in this article in any material respect.

33 (2) Upon receipt of a request for modification of an approved plan, a manufacturer shall
34 prepare and submit amendments to its plan consistent with the director's request within
35 60 days of receipt of such request.

1 (3) Such amendments shall be approved or disapproved by the director within 30 days
2 after receipt; if no action is taken after 30 days, such amendments shall be deemed
3 approved.

4 12-8-105.

5 (a) Commencing 30 days after the approval or conditional approval of a mercury
6 minimization plan pursuant to Code Section 12-8-104, a vehicle recycler that sells, gives,
7 or otherwise conveys ownership of an end-of-life vehicle to a scrap recycling facility for
8 recycling shall remove all mercury switches identified in the approved mercury
9 minimization plan from the end-of-life vehicle prior to delivery to a scrap recycling
10 facility, unless a mercury switch is inaccessible due to significant damage to the vehicle
11 in the area surrounding the location of the mercury switch, in which case the damage shall
12 be noted on the normal business records of the vehicle recycler who delivered the
13 end-of-life vehicle to the scrap recycling facility.

14 (b) Notwithstanding any other provision of this Code section, a scrap recycling facility
15 may agree to accept an end-of-life vehicle which has not been intentionally flattened,
16 crushed, or baled containing mercury switches, in which case the scrap recycling facility
17 shall be responsible for removing the mercury switches identified in the mercury
18 minimization plan approved pursuant to Code Section 12-8-104 before the end-of-life
19 vehicle is intentionally flattened, crushed, baled or shredded.

20 (c)(1) A vehicle recycler or scrap recycling facility that removes mercury switches
21 pursuant to this article shall maintain records documenting the number of:

22 (A) Mercury switches collected;

23 (B) End-of-life domestic vehicles processed for recycling;

24 (2) Such records shall be made available for review by the vehicle recycler or scrap
25 recycling facility upon the request of the division.

26 (d) No person shall represent that mercury switches have been removed from an
27 end-of-life vehicle being sold, given, or otherwise conveyed for recycling if that person has
28 not removed the mercury switches or arranged with another person to remove the mercury
29 switches.

30 (e) Upon removal, mercury switches shall be collected, stored, transported, and otherwise
31 handled in accordance with the:

32 (1) Mercury minimization plan approved pursuant to Code Section 12-8-104; and

33 (2) Provisions of the rules and regulations concerning universal waste adopted by the
34 board.

1 (f) No scrap recycling facility or other person that receives an intentionally flattened,
2 crushed, or baled end-of-life vehicle shall be deemed in violation of this Code section if a
3 mercury switch is found in the vehicle after its acquisition.

4 12-8-106.

5 (a) One year after the implementation of a mercury minimization plan approved pursuant
6 to Code Section 12-8-104, and annually thereafter, a manufacturer subject to this article
7 shall report individually or as part of a group to the director concerning the implementation
8 of the mercury minimization plan. The report shall include, but need not be limited to, the
9 following:

10 (1) A detailed description and documentation of the capture rate achieved, with the goal
11 of achieving a mercury switch capture rate of at least 90 percent, consistent with the
12 principle that mercury switches shall be recovered unless the mercury switch is
13 inaccessible due to significant damage to the end-of-life vehicle in the area surrounding
14 where the mercury switch is located;

15 (2) A description of additional or alternative actions that may be implemented to improve
16 the mercury minimization plan and its implementation in the event that a mercury switch
17 capture rate of at least 90 percent is not achieved;

18 (3) The number of mercury switches collected, the number of end-of-life vehicles
19 processed for recycling, and a description of how the mercury switches were managed;
20 and

21 (4) A description of the amounts paid to cover the costs of implementing the mercury
22 minimization plan under this article.

23 (b) The director may discontinue the requirement for the annual report pursuant to this
24 Code section upon a finding that mercury switches in end-of-life vehicles manufactured by
25 a particular manufacturer no longer pose a significant threat to the environment or to public
26 health.

27 12-8-107.

28 The board may adopt rules and regulations to effectuate and implement the purposes and
29 intent of this article and the powers and duties of the division.

30 12-8-108.

31 (a) Any information that constitutes a trade secret under Article 27 of Chapter 1 of Title
32 10, the 'Georgia Trade Secrets Act of 1990' and is obtained by the director or his or her
33 agents in the administration of this article shall be kept confidential and exempt from
34 disclosure under paragraph (1) of subsection (b) of Code Section 50-18-72.

1 (b) Any former director or former employee of the division who obtained trade secrets in
2 the administration of this article shall remain subject to the provisions of Article 7 of
3 Chapter 1 of the Title 10, the 'Georgia Trade Secrets Act of 1990' and Code Section
4 16-8-13."

5 **SECTION 2.**

6 All laws and parts of laws in conflict with this Act are repealed.