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An Act To Provide for the Safe Collection and Recycling of Mercury-containing Lighting

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1672 is enacted to read:

§ 1672. Mercury-added lamps

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Manufacturer" means a person who manufactures a mercury-added lamp and has a presence in the United States or a person who imports a mercury-added lamp manufactured by a person who does not have a presence in the United States.

B. "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process, including, but not limited to, linear fluorescent, compact fluorescent, black light, high-intensity discharge, ultraviolet and neon lamps.

C. "Municipal collection site" means a solid waste disposal facility, transfer station, storage facility or recycling facility at which mercury-added lamps from households are collected for recycling that is municipally owned or operated or operated by a regional association.

D. "Person" means any individual, corporation, partnership, cooperative, association, firm, sole proprietorship, government agency or other entity.

2. Mercury content standards. The following provisions govern mercury content standards.

A. The department shall adopt rules establishing mercury content standards for lamps sold or manufactured in the State on or after January 1, 2012. The standards must be based on mercury content standards for lamps established in California. If one or more categories of lamps are not covered by the mercury content standards established in California, the department may adopt standards minimizing the mercury content of lamps within those categories, including adoption of a no-mercury standard if a nonmercury alternative is available at a cost comparable to a mercury alternative. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. The rules adopted under paragraph A must provide that:

(1) A manufacturer of mercury-added lamps sold or being offered for sale in the State shall prepare and, at the request of the department, submit within 28 days of the date of the request technical documentation or other information showing that the manufacturer's mercury-added

lamps sold or offered for sale in the State comply with the rules. If the manufacturer of a mercury-added lamp being sold or offered for sale does not provide the documentation requested, that manufacturer may not be allowed to sell or offer for sale mercury-added lamps in the State; and

(2) A manufacturer of mercury-added lamps sold or being offered for sale in the State shall provide upon request a certification to a person who sells or offers for sale a mercury-added lamp of that manufacturer. The certification must attest that the mercury-added lamp does not contain levels of mercury that would result in the prohibition of that lamp being sold or offered for sale in the State. If the manufacturer of a mercury-added lamp being sold or offered for sale does not provide the certification requested, that manufacturer may not be allowed to sell or offer mercury-added lamps for sale in the State.

3. Mercury-added lamp purchasing. When making purchasing decisions on mercury-added lamps and ballasts, the Department of Administrative and Financial Services, in consultation with the department and the Public Utilities Commission, shall request information on mercury content, energy use, lumen output and lamp life from potential suppliers and shall issue specifications and make purchasing decisions that favor models at comparable cost with high energy efficiency, lower mercury content and longer lamp life. Information obtained on mercury content, energy use and lamp life must be made available by the Department of Administrative and Financial Services to other purchasers who purchase a large number of mercury-added lamps. This information must also be posted on the State's publicly accessible website.

4. Manufacturer recycling programs for household mercury-added lamps. Effective January 1, 2011, each manufacturer of mercury-added lamps sold or distributed for household use in the State on or after January 1, 2001 shall individually or collectively implement a department-approved program for the recycling of mercury-added lamps from households.

A. The recycling program required under this subsection must include:

(1) Convenient collection locations located throughout the State where residents can drop off their household lamps without cost, including but not limited to municipal collection sites and participating retail establishments;

(2) Handling and recycling equipment and practices in compliance with the universal waste rules adopted pursuant to section 1319-O, subsection 1, paragraph F and all other applicable requirements;

(3) Effective education and outreach, including, but not limited to, point-of-purchase signs and other materials provided to retail establishments without cost; and

(4) An annual report to the department on the number of mercury-added lamps recycled under the manufacturer's program, the estimated percentage of mercury-added lamps available for recycling that were recycled under the program and the methodology for estimating the number of mercury-added lamps available for recycling, an evaluation of the effectiveness of the recycling program, recommendations for increasing the number of lamps recycled under the recycling program and an accounting of the costs associated with administering and implementing the recycling program.

B. A manufacturer required to implement a recycling program under this subsection shall submit its proposed recycling program for department review and approval. The department shall solicit public comment on the proposed program before approving or denying the program.

C. Beginning April 1, 2011, a manufacturer not in compliance with this section is prohibited from offering any mercury-added lamp for final sale in the State or distributing any mercury-added lamp in the State. A manufacturer not in compliance with this section shall provide support to retailers to ensure the manufacturer's mercury-added lamps are not offered for sale, sold at final sale or distributed in the State.

D. Beginning April 1, 2011, a retailer may not offer for final sale a mercury-added lamp produced by a manufacturer not in compliance with this section. The department shall notify retailers of the manufacturers of mercury-added lamps not in compliance with this section.

E. Beginning April 15, 2013, and biennially thereafter, the department shall calculate the percentage of mercury-added lamps recycled from households and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on any modifications to the manufacturer recycling programs it intends to make to improve mercury-added lamp recycling rates and any recommendations for statutory changes needed to facilitate mercury-added lamp collection and recycling.

F. The department may determine that a manufacturer's recycling program is in compliance with paragraph A, subparagraphs (1), (2) and (4) for the collection of compact fluorescent lamps from households if the manufacturer provides adequate financial support for the collection and recycling of such lamps to municipalities and a conservation program established pursuant to Title 35-A, section 3211-A and implemented by the Public Utilities Commission.

5. Applicability. The requirements of this section do not apply to motor vehicles as defined in Title 29-A, section 101, subsection 42 or watercraft as defined in Title 12, section 13001, subsection 28 or their component parts.

Sec. 2. Recycling program submission date for existing manufacturers. A manufacturer subject to the Maine Revised Statutes, Title 38, section 1672 and in existence on the effective date of this Act shall submit its proposed recycling program pursuant to Title 38, section 1672, subsection 4, paragraph B by January 1, 2010.

Sec. 3. Report on recycling of mercury-added lamps from businesses. The Department of Environmental Protection shall submit a report by January 1, 2010 to the Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps from businesses, including, but not limited to, linear fluorescent lamps. The report must include:

1. An estimate of the number of mercury-added lamps recycled and the recycling rate for mercury-added lamps from businesses over each of the last 3 years;
2. A comprehensive strategy for improving lamp recycling rates;
3. Any legislation necessary to implement the strategy proposed in the report; and
4. The availability of nonmercury lamps to replace mercury-added lamps.

The Joint Standing Committee on Natural Resources may submit legislation to the Second Regular Session of the 124th Legislature to implement recommendations included in the report.

Sec. 4. Report on recycling of mercury-added lamps from households. The Department of Environmental Protection shall submit a report by January 1, 2010 to the Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps from households pursuant to the Maine Revised Statutes, Title 38, section 1672. The report must include, but is not limited to:

1. An assessment of the costs of the manufacturer recycling programs for mercury-added lamps to manufacturers, consumers, municipalities and others;
2. After consultation with manufacturers of mercury-added lamps, recommendations for streamlining the recycling of mercury-added lamps from households; and
3. A review and assessment of education and outreach alternatives.

The Joint Standing Committee on Natural Resources may submit legislation to the Second Regular Session of the 124th Legislature to implement recommendations included in the report.

Effective 90 days following adjournment of the 124th
Legislature, First Regular Session, unless otherwise indicated.