

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

2

HOUSE BILL 1758
Committee Substitute Favorable 5/7/07

Short Title: Mercury Switch Removal Prgm. Amends.

(Public)

Sponsors:

Referred to:

April 19, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS GOVERNING THE REMOVAL OF MERCURY
3 SWITCHES FROM VEHICLES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 130A-310.50 reads as rewritten:

6 "§ 130A-310.50. Definitions.

7 As used in this Part: ~~Part~~Part, the following terms mean:

8 (1) ~~"Capture rate" means the annual removal, collection, and recovery of~~
9 ~~mercury switches as a percentage of the total number of mercury~~
10 ~~switches available for removal from end-of-life vehicles.~~

11 (2) ~~"End-of-life vehicle" means a~~End-of-life vehicle. – A vehicle that is
12 sold, given, or otherwise conveyed to a vehicle crusher, vehicle
13 dismantler, vehicle reeyerer- recycler, or scrap metal recycling-vehicle
14 processing facility for the purpose of recycling.

15 (2a) Inaccessible. – When used in connection with mercury switch due to
16 the condition of the vehicle, the mercury switch cannot be removed
17 from a vehicle without a significant risk of a release of mercury into
18 the environment.

19 (3) ~~"Manufacturer" means a person, firm, association, partnership,~~
20 ~~corporation, governmental entity, organization, combination, or joint~~
21 ~~venture that is the last person in the production or assembly process of~~
22 ~~a new vehicle that utilizes mercury switches, or in the case of an~~
23 ~~imported vehicle, the importer or domestic distributor of the vehicle.~~

24 (4) ~~"Mercury minimization plan" means a plan for removing, collecting,~~
25 ~~and recovering mercury switches from end-of-life vehicles that is~~
26 ~~prepared as provided in G.S. 130A-310.53.~~

27 (5) ~~"Mercury switch" means each mercury-containing capsule, commonly~~
28 ~~known as a "bullet",~~Mercury switch. – Each capsule or assembly

1 containing mercury that is part of a convenience light switch assembly
2 installed in a vehicle.

3 (5a) Mercury switch removal performance rate. – The amount of mercury
4 recovered from mercury switches from the State (to be designated as
5 (a)), divided by the estimated amount of mercury available to be
6 recovered from mercury switches from the State (to be designated as
7 (b)), the result of which is divided by the amount of mercury recovered
8 nationally from mercury switches (to be designated as (c)), divided by
9 the estimated amount of mercury from mercury switches available
10 nationally (to be designated as (d)), expressed by the following
11 formula: [(a)/(b)]/[(c)/(d)]. For purposes of this subdivision, "amount"
12 means the amount in pounds during a calendar year.

13 (5b) NVMSRP. – The Memorandum of Understanding to establish the
14 National Vehicle Mercury Switch Recovery Program dated 11 August
15 2006.

16 (6) ~~"Scrap metal recycling facility" means a Scrap vehicle processing~~
17 ~~facility.~~ – A fixed location where machinery and equipment are used to
18 process scrap metal vehicles into specific grades of scrap metal for sale
19 and whose primary product is scrap iron, scrap steel, or nonferrous
20 metallic scrap specification grade commodities including facilities
21 where a shredder or fragmentizer is used to process scrap vehicles into
22 shredded scrap and facilities where end-of-life vehicles are prepared to
23 be shredded.

24 (7) ~~"Vehicle" means any Vehicle.~~ – Any passenger automobile or
25 passenger car, station wagon, truck, van, or sport utility vehicle with a
26 gross vehicle weight rating of less than 12,000 pounds.

27 (7a) Vehicle crusher. – A person who engages in the business of flattening,
28 crushing, or otherwise processing end-of-life vehicles for recycling.
29 Vehicle crusher includes a person who uses fixed or mobile equipment
30 to flatten or crush end-of-life vehicles for a vehicle recycler or a scrap
31 vehicle processing facility.

32 (7b) Vehicle dismantler. – A vehicle recycler.

33 (7c) Vehicle manufacturer. – A person, firm, association, partnership,
34 corporation, governmental entity, organization, combination, or joint
35 venture that owns or operates the final production or assembly process
36 of a motor vehicle that contains one or more mercury switches, or in
37 the case of an imported vehicle, the importer or domestic distributor of
38 the vehicle. "Vehicle manufacturer" does not include any person
39 engaged in the business of selling new motor vehicles at retail or any
40 person who converts or modifies new motor vehicles after the
41 production or assembly process.

42 (8) ~~"Vehicle recycler" means an individual~~ Vehicle recycler. – A person or
43 entity engaged in the business of acquiring, dismantling, or destroying
44 six or more end-of-life vehicles in a calendar year for the primary

1 purpose of resale of parts of the ~~vehicle.~~vehicle, including scrap
2 metal."

3 **SECTION 2.** G.S. 130A-310.52 is repealed.

4 **SECTION 3.** G.S. 130A-310.53 reads as rewritten:

5 "**§ 130A-310.53. Removal of mercury switches from end-of-life vehicles.**

6 (a) ~~A vehicle recycler that conveys ownership of an end-of-life vehicle to a scrap~~
7 ~~metal recycling facility shall remove all mercury switches identified in the mercury~~
8 ~~minimization plan prior to delivery of the vehicle to the scrap metal recycling facility. If~~
9 ~~a mercury switch is inaccessible, the fact that the mercury switch remains in the vehicle~~
10 ~~shall be noted on the vehicle recycler's invoice. A vehicle crusher, vehicle dismantler,~~
11 ~~vehicle recycler, or scrap vehicle processing facility shall not flatten, crush, bale, or~~
12 ~~shred an end-of-life vehicle that contains accessible mercury switches. Except as~~
13 ~~provided in this subsection, a vehicle crusher, vehicle dismantler, vehicle recycler, or~~
14 ~~scrap vehicle processing facility shall remove all accessible mercury switches from~~
15 ~~end-of-life vehicles before the vehicle is flattened, crushed, baled, or shredded, or~~
16 ~~before the vehicle is conveyed to another vehicle crusher, vehicle dismantler, vehicle~~
17 ~~recycler, or scrap vehicle processing facility. If a vehicle crusher, vehicle dismantler,~~
18 ~~vehicle recycler, or scrap vehicle processing facility conveys an end-of-life vehicle to~~
19 ~~another vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing~~
20 ~~facility without removing accessible mercury switches, the receiving vehicle crusher,~~
21 ~~vehicle dismantler, vehicle recycler, or scrap vehicle processing facility must agree to~~
22 ~~accept the end-of-life vehicle and assume responsibility for the proper removal of all~~
23 ~~accessible mercury switches. The agreement to assume responsibility for the proper~~
24 ~~removal of all accessible mercury switches shall be documented on an invoice that is~~
25 ~~provided by the vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle~~
26 ~~processing facility to the person to whom the vehicle is conveyed.~~

27 (b) ~~A scrap metal recycling facility that accepts an end-of-life vehicle that has not~~
28 ~~been flattened, crushed, baled, or shredded and that contains mercury switches shall~~
29 ~~remove the mercury switches before the end-of-life vehicle is flattened, crushed, baled,~~
30 ~~or shredded unless the mercury switch is inaccessible. A vehicle crusher, vehicle~~
31 ~~dismantler, vehicle recycler, or scrap vehicle processing facility that removes all~~
32 ~~accessible mercury switches from an end-of-life vehicle shall mark the vehicle to~~
33 ~~indicate that all accessible mercury switches have been removed. If an end-of-life~~
34 ~~vehicle contains an inaccessible mercury switch, the vehicle crusher, vehicle dismantler,~~
35 ~~vehicle recycler, or scrap vehicle processing facility must mark the vehicle to indicate~~
36 ~~that the vehicle contains an inaccessible mercury switch and must note the fact that the~~
37 ~~vehicle contains an inaccessible mercury switch on an invoice that is provided to any~~
38 ~~person to whom the vehicle is conveyed.~~

39 (c) ~~A mercury switch is inaccessible if, due to the condition of the vehicle, the~~
40 ~~switch cannot be removed in accordance with the mercury minimization plan and~~
41 ~~removal of the switch would significantly increase the risk of a release of mercury into~~
42 ~~the environment.~~

1 (d) ~~A vehicle recycler or scrap metal recycling facility that removes mercury~~
2 ~~switches pursuant to subsection (a) or (b) of this section shall make quarterly reports to~~
3 ~~the Department on the following:~~

4 (1) ~~The number of vehicles that it processed for recycling.~~

5 (2) ~~The number of vehicles from which it removed a mercury switch by~~
6 ~~make.~~

7 (3) ~~The number of vehicles for which it could not remove the mercury~~
8 ~~switch because the switch was inaccessible.~~

9 (e) Mercury switches that are removed from end-of-life vehicles are considered
10 "universal waste" as defined in 40 Code of Federal Regulations § 273.9 (~~July~~
11 ~~2004~~July 1, 2006 Edition). Mercury switches that are removed from end-of-life vehicles
12 shall be collected, transported, treated, stored, disposed of, and otherwise handled in
13 accordance with rules adopted by the Commission governing universal waste.

14 (f) Vehicle manufacturers, in cooperation with the Department, shall develop,
15 implement, and bear the costs of a mercury switch collection system in accordance with
16 the NVMSRP. This system shall be developed and implemented so as to enhance
17 vehicle recyclability, promote public education and outreach, and provide for the proper
18 removal, collection, and disposal of mercury switches from end-of-life vehicles."

19 **SECTION 4.** G.S. 130A-310.54 reads as rewritten:

20 "**§ 130A-310.54. Funds to ~~implement plan.~~Mercury Switch Removal Account.**

21 (a) The Mercury ~~Pollution Prevention~~Switch Removal Account is established in
22 the Department. Revenue is credited to the Account from the certificate of title fee
23 under G.S. 20-85.

24 (b) Revenue in the Mercury ~~Pollution Prevention~~Switch Removal Account shall
25 be used to reimburse the Department and others for costs incurred in implementing the
26 mercury ~~minimization plan.~~switch removal program. The reimbursable costs are:

27 (1) Five dollars (\$5.00) for each mercury switch removed by a vehicle
28 crusher, vehicle dismantler, vehicle ~~recycler-recycler,~~ or scrap metal
29 ~~recycling~~vehicle processing facility pursuant to this ~~Article.~~Article and
30 sent to destination facilities in accordance with the NVMSRP for
31 recycling or disposal.

32 (2) Costs incurred by the Department in administering the ~~plan.~~program.

33 (c) The Department shall reimburse vehicle ~~recyclers—~~crushers, vehicle
34 dismantlers, vehicle recyclers, and scrap metal ~~recycling~~vehicle processing facilities
35 based on the ~~quarterly reports submitted under G.S. 130A-310.53.~~The Department may
36 request any information needed to determine the accuracy of the reports.a
37 reimbursement request that attests to the number of switches sent to destination facilities
38 for recycling or disposal in accordance with the NVMSRP. Each reimbursement request
39 shall be verified against information posted on the Internet site provided by the vehicle
40 manufacturers in accordance with the NVMSRP. The vehicle crusher, vehicle
41 dismantler, vehicle recycler, or scrap vehicle processing facility shall provide the
42 Department with any information needed to verify the accuracy of a reimbursement
43 request. Each vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle
44 processing facility shall maintain accurate records that support each reimbursement

1 request for a minimum of three years from the date the reimbursement request is
2 approved."

3 **SECTION 5.** G.S. 130A-310.55 reads as rewritten:

4 **"§ 130A-310.55. Violations of Article; enforcement.**

5 (a) It is unlawful for a person to do any of the following:

6 (1) Knowingly flatten, crush, bale, shred, or otherwise alter the condition
7 of a vehicle from which accessible mercury switches have not been
8 removed, in any manner that would prevent or significantly hinder the
9 removal of a mercury switch.

10 (2) Willfully fail to remove a mercury switch when the person is required
11 to do so.

12 (3) Knowingly make a false report that a mercury switch has been
13 removed from an end-of-life vehicle.

14 (4) Obtain a mercury switch from another source and falsely report that it
15 was removed from a vehicle processed for recycling.

16 (b) ~~This Part may be enforced as provided in Part 2 of Article 1 of this Chapter.~~
17 Any person who violates subdivision (1) or (2) of subsection (a) of this section shall be
18 punished as provided in G.S. 14-3.

19 (c) Any person who violates subdivision (3) or (4) of subsection (a) of this
20 section shall be guilty of a Class 2 misdemeanor and, upon conviction, shall be punished
21 as provided in G.S. 130A-26.2.

22 (d) A violation of any provision of this Part, any rule adopted pursuant to this
23 Part, or any rule governing universal waste may be enforced by an administrative or
24 civil action as provided in Part 2 of Article 1 of this Chapter."

25 **SECTION 6.** G.S. 130A-310.56 is repealed.

26 **SECTION 7.** G.S. 130A-310.57 reads as rewritten:

27 **"§ 130A-310.57. ~~Report on plan.~~Reports.**

28 The Department shall ~~publish~~ submit an annual report on the mercury ~~minimization~~
29 ~~plan~~ switch removal program under this Part to the Environmental Review Commission
30 and the Senate and House of Representatives Appropriations Subcommittee on Natural
31 and Economic Resources on or before ~~November 1.~~ October 1st of each year. The report
32 shall include, at a minimum, all of the following:

33 (1) A detailed description ~~and documentation~~ of the mercury switch
34 removal performance rate ~~capture rate achieved.~~ achieved by the
35 mercury switch removal program.

36 (1a) A detailed description of the mercury switch collection system
37 developed and implemented by vehicle manufacturers in accordance
38 with the NVMSRP.

39 (2) In the event that a ~~capture rate~~ mercury switch removal performance
40 rate of at least ninety percent (90%) 0.90 or greater is not achieved, a
41 description of additional or alternative actions that may be
42 implemented to improve the mercury ~~minimization plan~~ and its
43 implementation. switch removal program.

1 (3) The number of mercury switches ~~collected, the number of end of life~~
2 ~~vehicles containing mercury switches, the number of end of life~~
3 ~~vehicles processed for recycling,~~ collected and a description of how
4 the mercury switches were managed.

5 (4) A statement that details the costs required to implement the mercury
6 ~~minimization plan.~~ switch removal program including a summary of
7 receipts and disbursements from the Mercury Switch Removal
8 Account."

9 **SECTION 8.** G.S. 20-85(a1) reads as rewritten:

10 "(a1) One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under
11 subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited
12 to the North Carolina Highway Fund. The Division shall use the fees derived from
13 transactions with the Division for technology improvements. The Division shall use the
14 fees derived from transactions with commission contract agents for the payment of
15 compensation to commission contract agents. An additional one dollar (\$1.00) of the fee
16 imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall
17 be credited to the Mercury ~~Pollution Prevention~~ Switch Removal Account in the
18 Department of Environment and Natural Resources."

19 **SECTION 9.** Sections 1, 2, 6, 7, and 9 of this act become effective when this
20 act becomes law. Sections 3, 4, 5, and 8 of this act become effective July 1, 2007.
21 Section 5 of this act applies to violations that occur on or after July 1, 2007. The
22 Department shall submit the first annual report required by G.S. 130A-310.57, as
23 enacted by Section 7 of this act, on or before October 1, 2008. This act expires on
24 December 31, 2017.