

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

H

3

HOUSE BILL 1758  
Committee Substitute Favorable 5/7/07  
Committee Substitute #2 Favorable 5/17/07

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:

- 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 vehicle that is sold, given, or otherwise  
12 conveyed to a vehicle crusher, vehicle dismantler, vehicle recycler  
13 recycler, or scrap metal recycling vehicle processing facility for the  
14 purpose of recycling.  
15 (2a) "Inaccessible", when used in connection with mercury switch, means  
16 that, due to the condition of the vehicle, the mercury switch cannot be  
17 removed from a vehicle without a significant risk of a release of  
18 mercury into 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.~~

- 1 (5) ~~"Mercury switch" means each mercury containing capsule, capsule or~~  
2 ~~assembly containing mercury commonly known as a "bullet", that is~~  
3 ~~part of a convenience light switch assembly installed in a vehicle.~~
- 4 (5a) "Mercury recovery performance ratio" means the ratio of the number  
5 of pounds of mercury recovered from mercury switches from the State  
6 in a calendar year to the estimated number of pounds of mercury  
7 available to be recovered from mercury switches from the State in the  
8 same calendar year.
- 9 (5b) "National mercury recovery performance ratio" means the ratio of the  
10 number of pounds of mercury recovered from mercury switches from  
11 the United States in a calendar year to the estimated number of pounds  
12 of mercury available to be recovered from mercury switches from the  
13 United States in the same calendar year.
- 14 (5c) "NVMSRP" means the Memorandum of Understanding to establish  
15 the National Vehicle Mercury Switch Recovery Program dated 11  
16 August 2006.
- 17 (6) ~~"Scrap metal recycling vehicle processing facility" means a fixed~~  
18 ~~location where machinery and equipment are used to process scrap~~  
19 ~~metal vehicles into specific grades of scrap metal for sale and whose~~  
20 ~~primary product is scrap iron, scrap steel, or nonferrous metallic~~  
21 ~~scrap specification grade commodities including facilities where a~~  
22 ~~shredder or fragmentizer is used to process scrap vehicles into~~  
23 ~~shredded scrap and facilities where end-of-life vehicles are prepared to~~  
24 ~~be shredded.~~
- 25 (7) "Vehicle" means any passenger automobile or passenger car, station  
26 wagon, truck, van, or sport utility vehicle with a gross vehicle weight  
27 rating of less than 12,000 pounds.
- 28 (7a) "Vehicle crusher" means a person who engages in the business of  
29 flattening, crushing, or otherwise processing end-of-life vehicles for  
30 recycling. Vehicle crusher includes, but is not limited to, a person who  
31 uses fixed or mobile equipment to flatten or crush end-of-life vehicles  
32 for a vehicle recycler or a scrap vehicle processing facility.
- 33 (7b) "Vehicle dismantler" has the same meaning as "vehicle recycler."
- 34 (7c) "Vehicle manufacturer" means a person, firm, association, partnership,  
35 corporation, governmental entity, organization, combination, or joint  
36 venture that is the last person in the production or assembly process of  
37 a motor vehicle that contains one or more mercury switches, or in the  
38 case of an imported vehicle, the importer or domestic distributor of the  
39 vehicle. "Vehicle manufacturer" does not include any person engaged  
40 in the business of selling new motor vehicles at retail or any person  
41 who converts or modifies new motor vehicles after the production or  
42 assembly process.
- 43 (8) ~~"Vehicle recycler" means an individual person or entity engaged in~~  
44 ~~the business of acquiring, dismantling, or destroying six or more~~

1 end-of-life vehicles in a calendar year for the primary purpose of resale  
2 of parts of the ~~vehicle-vehicle~~, including scrap 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. The vehicle crusher,  
34 vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall certify to  
35 any person to whom the vehicle is conveyed, in a form acceptable to the Department,  
36 that all accessible mercury switches have been removed from the vehicle.

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

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

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

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

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

5           (e) Mercury switches that are removed from end-of-life vehicles are considered  
6 "universal waste" as defined in 40 Code of Federal Regulations § 273.9 (1 July 2004  
7 2006 Edition). Mercury switches that are removed from end-of-life vehicles shall be  
8 collected, transported, treated, stored, disposed of, and otherwise handled in accordance  
9 with rules adopted by the Commission governing universal waste.

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

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

16 **"§ 130A-310.54. Funds to ~~implement plan.~~Mercury Switch Removal Account.**

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

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

23           (1) Five dollars (\$5.00) for each mercury switch removed by a vehicle  
24 crusher, vehicle dismantler, vehicle ~~reeycler~~recycler, or scrap metal  
25 recyclingvehicle processing facility pursuant to this Article.~~Article and~~  
26 sent to destination facilities in accordance with the NVMSRP for  
27 recycling or disposal.

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

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

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

1 **"§ 130A-310.55. Violations of Article; enforcement.**

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

- 3 (1) Knowingly flatten, crush, bale, shred, or otherwise alter the condition  
4 of a vehicle from which accessible mercury switches have not been  
5 removed, in any manner that would prevent or significantly hinder the  
6 removal of a mercury switch.
- 7 (2) Willfully fail to remove a mercury switch when the person is required  
8 to do so.
- 9 (3) Knowingly make a false report that a mercury switch has been  
10 removed from an end-of-life vehicle.
- 11 (4) Obtain a mercury switch from another source and falsely report that it  
12 was removed from a vehicle processed for recycling.

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

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

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

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

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

24 **"§ 130A-310.57. Report on plan.~~Reports.~~**

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

30 (1) A detailed description ~~and documentation~~ of the mercury recovery  
31 performance ratio ~~capture rate achieved~~ achieved by the mercury  
32 switch removal program.

33 (1a) A detailed description of the mercury switch collection system  
34 developed and implemented by vehicle manufacturers in accordance  
35 with the NVMSRP.

36 (2) In the event that a ~~capture rate~~ mercury recovery performance ratio of  
37 at least ~~ninety percent (90%)~~ 0.90 of the national mercury recovery  
38 performance ratio as reported by the NVMSRP is not achieved, a  
39 description of additional or alternative actions that may be  
40 implemented to improve the mercury ~~minimization plan and its~~  
41 implementation ~~switch removal program.~~

42 (3) The number of mercury switches ~~collected, the number of end of life~~  
43 ~~vehicles containing mercury switches, the number of end of life~~

1                    ~~vehicles processed for recycling, collected~~ and a description of how  
2                    the mercury switches were managed.

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

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

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

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