

Proposed Substitute House Bill 1185 (H-1238.3)

House Environment & Energy Committee

By Representative Duerr

Original Bill:

Reducing environmental impacts associated with lighting products.

Proposed Substitute (H-1238.3) compared to the original bill:

- Defines the types of compact fluorescent lamps and linear fluorescent lamps containing mercury that are subject to sale restrictions beginning in 2026.
- Clarifies that a stewardship organization operating an approved mercury light collection program may continue to implement that program as approved until December 31, 2025, and that new requirements applicable to the financing and implementation of the stewardship program, and the expansion of the program to address lights in addition to mercury-containing lights, take effect with a plan that must be implemented by January 1, 2026.
- Amends the convenience standard that the light stewardship program must achieve in the distribution of collection sites to reference a newly adopted United States Census Bureau definition of urban area, rather than referencing urban clusters and urbanized areas.
- Prohibits the disposal of lights in most solid waste and recycling containers, in the same manner as applies to mercury-containing lights.
- Requires annual reports submitted by stewardship organizations to include the address, latitude, and longitude of collection sites anticipated to be used by the program in the upcoming year.
- Requires annual reports to include proposed performance goals that measure the achievements of the program on light collection, light recycling, access and convenience for residents, and public awareness.

Committee: House Environment & Energy Committee
Staff: Jacob Lipson (786-7196), Office of Program Research
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1 AN ACT Relating to reducing environmental impacts associated with
2 lighting products; amending RCW 70A.230.020, 70A.505.010,
3 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050, 70A.505.060,
4 70A.505.070, 70A.505.100, 70A.505.110, 70A.505.120, 70A.505.130,
5 70A.505.160, 82.04.660, 43.21B.110, 70A.230.080, and 70A.505.080;
6 adding a new section to chapter 70A.505 RCW; creating a new section;
7 repealing RCW 70A.505.090, 43.131.421, 43.131.422, and 70A.230.150;
8 prescribing penalties; and providing effective dates.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2025 the
11 state's stewardship program for the end-of-life management of
12 mercury-containing lights is statutorily scheduled to undergo review
13 and termination or possible extension under chapter 43.131 RCW, the
14 sunset act. If the mercury-containing lights product stewardship
15 program were allowed to sunset as scheduled, Washington residents
16 would lack a consistent, convenient, and safe way to return unwanted
17 mercury-containing lights, which will remain in use for years, even
18 as the lighting industry has moved away from mercury-containing
19 lights. Mercury-containing lights present such a significant health
20 risk that other states have recently restricted their sale, which
21 represents a solution to reduce the public health impacts of new

1 lighting products, but which does not address the end-of-life
2 management issues associated with the existing light bulbs currently
3 in use. Lights other than mercury-containing lights also contain
4 valuable and recyclable components whose end-of-life management would
5 improve as a result of their inclusion in the existing stewardship
6 program.

7 (2) The state's existing mercury-containing lights program, which
8 was first enacted over a decade ago, contains policy provisions,
9 including the establishment of a per-bulb fee attached to the sale of
10 mercury-containing lights, that are now recognized as not
11 representing the best practices for the design of stewardship
12 programs.

13 (3) Therefore, it is the intent of the legislature to:

14 (a) Restrict the sale of some mercury-containing lights;

15 (b) Include other types of lights in the state's stewardship
16 program; and

17 (c) Modernize key elements of the state's stewardship program for
18 lighting products.

19 **Sec. 2.** RCW 70A.230.020 and 2003 c 260 s 3 are each amended to
20 read as follows:

21 (1) Effective January 1, ~~((2004))~~ 2026, a manufacturer,
22 wholesaler, or retailer may not knowingly sell(~~(--at retail a~~
23 ~~fluorescent lamp))~~ a compact fluorescent lamp or linear fluorescent
24 lamp, as defined in RCW 70A.505.020 if the ~~((fluorescent))~~ lamp
25 contains mercury ~~((and was manufactured after November 30, 2003,~~
26 ~~unless the fluorescent lamp is labeled in accordance with the~~
27 ~~guidelines listed under subsection (2) of this section. Primary~~
28 ~~responsibility for affixing labels required under this section is on~~
29 ~~the manufacturer, and not on the wholesaler or retailer))~~).

30 ~~((Except as provided in subsection (3) of this section, a~~
31 ~~lamp is considered labeled pursuant to subsection (1) of this section~~
32 ~~if the lamp has all of the following:~~

33 ~~(a) A label affixed to the lamp that displays the internationally~~
34 ~~recognized symbol for the element mercury; and~~

35 ~~(b) A label on the lamp's packaging that: (i) Clearly informs the~~
36 ~~purchaser that mercury is present in the item; (ii) explains that the~~
37 ~~fluorescent lamp should be disposed of according to applicable~~
38 ~~federal, state, and local laws; and (iii) provides a toll-free~~

1 ~~telephone number, and a uniform resource locator internet address to~~
2 ~~a website, that contains information on applicable disposal laws.~~

3 ~~(3) The manufacturer of a mercury-added lamp is in compliance~~
4 ~~with the requirements of this section if the manufacturer is in~~
5 ~~compliance with the labeling requirements of another state.~~

6 ~~(4) The provisions of this section do not apply to products~~
7 ~~containing mercury-added lamps)) The provisions of subsection (1) of~~
8 ~~this section do not apply to:~~

9 (a) A special purpose mercury-containing light, as defined in RCW
10 70A.505.020;

11 (b) The products specified in RCW 70A.230.110; or

12 (c) The sale or purchase of mercury-containing lights as a casual
13 or isolated sale as defined in RCW 82.04.040.

14 (3) A violation of this section is punishable by a civil penalty
15 not to exceed \$1,000 for each violation in the case of a first
16 violation. Repeat violators are liable for a civil penalty not to
17 exceed \$5,000 for each repeat violation. Penalties collected under
18 this section must be deposited in the model toxics control operating
19 account created in RCW 70A.305.180. Penalties imposed under this
20 section are appealable to the pollution control hearings board
21 established in chapter 43.21B RCW.

22 (4) The department may adopt rules to implement, administer, and
23 enforce the requirements of this section.

24 NEW SECTION. Sec. 3. A new section is added to chapter 70A.505
25 RCW to read as follows:

26 (1) As of January 1, 2026, no producer, wholesaler, retailer,
27 electric utility, or other person may distribute, sell, or offer for
28 sale lights to any person in this state unless the producer is
29 participating in a product stewardship program under a plan approved
30 by the department.

31 (2) Subsection (1) of this section does not apply to mercury-
32 containing lights other than special purpose mercury-containing
33 lights. Mercury-containing lights other than special purpose mercury-
34 containing lights are subject to the provisions of RCW 70A.505.090
35 until December 31, 2025, after which they are instead subject to the
36 provisions of RCW 70A.230.020 beginning January 1, 2026.

37 **Sec. 4.** RCW 70A.505.010 and 2010 c 130 s 1 are each amended to
38 read as follows:

1 The legislature finds that:

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

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

11 (3) (a) The purpose of chapter 130, Laws of 2010 is to achieve a
12 statewide goal of recycling all end-of-life mercury-containing lights
13 by 2020 through expanded public education, a uniform statewide
14 requirement to recycle all mercury-containing lights, and the
15 development of a comprehensive, safe, and convenient collection
16 system that includes use of residential curbside collection programs,
17 mail-back containers, increased support for household hazardous waste
18 facilities, and a network of additional collection locations;

19 (b) The purpose of this act is to reduce exposure to mercury by
20 phasing out the sale of most mercury-containing lights, and by
21 transitioning the stewardship program established under this chapter
22 to one that is focused on the improved end-of-life management of all
23 types of lights;

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

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

30 **Sec. 5.** RCW 70A.505.020 and 2020 c 20 s 1414 are each amended to
31 read as follows:

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

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

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

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

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

10 (3) "Covered entities" means:

11 (a) A household generator or other person who purchases
12 (~~mercury-containing~~) lights (~~at retail~~) and delivers (~~no more~~
13 ~~than ten mercury-containing~~) lights to registered collectors for a
14 product stewardship program on any given day; and

15 (b) A household generator or other person who purchases
16 (~~mercury-containing~~) lights at retail and utilizes a registered
17 residential curbside collection program or a mail-back program for
18 collection of (~~mercury-containing~~) lights (~~and discards no more~~
19 ~~than fifteen mercury-containing lights into those programs on any~~
20 ~~given day~~).

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

22 (5) (~~"Environmental handling charge" or "charge" means the~~
23 ~~charge approved by the department to be applied to each mercury-~~
24 ~~containing light to be sold at retail in or into Washington state.~~
25 ~~The environmental handling charge must cover all administrative and~~
26 ~~operational costs associated with the product stewardship program,~~
27 ~~including the fee for the department's administration and~~
28 ~~enforcement.~~

29 (~~6~~) "Final disposition" means the point beyond which no further
30 processing takes place and materials from (~~mercury-containing~~)
31 lights have been transformed for direct use as a feedstock in
32 producing new products, or disposed of or managed in permitted
33 facilities.

34 (~~7~~) (6) "Hazardous substances" or "hazardous materials" means
35 those substances or materials identified by rules adopted under
36 chapter 70A.300 RCW.

37 (~~8~~) (7) "Mail-back program" means the use of a prepaid
38 postage container, with mercury vapor barrier packaging when such a
39 container is intended for mercury-containing lights, that is used for
40 the collection and recycling of (~~mercury-containing~~) lights from

1 covered entities as part of a product stewardship program and is
2 transported by the United States postal service or a common carrier.

3 ~~((9))~~ (8) "Mercury-containing lights" means ~~((lamps, bulbs,~~
4 ~~tubes, or other devices))~~ lights that contain mercury and provide
5 functional illumination or serve other purposes in homes, businesses,
6 and outdoor stationary fixtures.

7 ~~((10))~~ (9) "Mercury vapor barrier packaging" means sealable
8 containers that are specifically designed for the storage, handling,
9 and transport of mercury-containing lights in order to prevent the
10 escape of mercury into the environment by volatilization or any other
11 means, and that meet the requirements for transporting by the United
12 States postal service or a common carrier.

13 ~~((11))~~ (10) "Orphan product" means a ~~((mercury-containing))~~
14 light that lacks a producer's brand, or for which the producer is no
15 longer in business and has no successor in interest, or that bears a
16 brand for which the department cannot identify an owner.

17 ~~((12))~~ (11) "Person" means a sole proprietorship, partnership,
18 corporation, nonprofit corporation or organization, limited liability
19 company, firm, association, cooperative, or other legal entity
20 located within or outside Washington state.

21 ~~((13))~~ (12) "Processing" means recovering materials from
22 unwanted products for use as feedstock in new products. ~~((Processing~~
23 ~~must occur at permitted facilities.))~~

24 ~~((14))~~ (13) "Producer" means a person that:

25 (a) Has or had legal ownership of the brand, brand name, or
26 cobrand of a ~~((mercury-containing))~~ light sold in or into Washington
27 state, unless the brand owner is a retailer whose ~~((mercury-~~
28 ~~containing))~~ light was supplied by another producer participating in
29 a stewardship program under this chapter;

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

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

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

1 ~~((15))~~ (14) "Product stewardship" means a requirement for a
2 producer of ~~((mercury-containing))~~ lights to manage and reduce
3 adverse safety, health, and environmental impacts of the product
4 throughout its life cycle, including financing and providing for the
5 collection, transporting, reusing, recycling, processing, and final
6 disposition of their products.

7 ~~((16))~~ (15) "Product stewardship plan" or "plan" means a
8 detailed plan describing the manner in which a product stewardship
9 program will be implemented.

10 ~~((17))~~ (16) "Product stewardship program" or "program" means
11 the methods, systems, and services financed in the manner provided
12 for under RCW 70A.505.050 and provided by producers of ~~((mercury-~~
13 ~~containing))~~ lights generated by covered entities that addresses
14 product stewardship and includes arranging for the collection,
15 transportation, recycling, processing, and final disposition of
16 unwanted ~~((mercury-containing))~~ lights, including orphan products.

17 ~~((18))~~ (17) "Recovery" means the collection and transportation
18 of unwanted ~~((mercury-containing))~~ lights under this chapter.

19 ~~((19))~~ (18)(a) "Recycling" means transforming or
20 remanufacturing unwanted products into usable or marketable materials
21 for use other than landfill disposal or incineration.

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

25 ~~((20))~~ (19) "Reporting period" means the period commencing
26 January 1st and ending December 31st in the same calendar year.

27 ~~((21))~~ (20) "Residuals" means nonrecyclable materials left over
28 from processing an unwanted product.

29 ~~((22))~~ (21) "Retailer" means a person who offers ~~((mercury-~~
30 ~~containing))~~ lights for sale at retail through any means including,
31 but not limited to, remote offerings such as sales outlets, catalogs,
32 or the internet, but does not include a sale that is a wholesale
33 transaction with a distributor or a retailer.

34 ~~((23))~~ (22)(a) "Reuse" means a change in ownership of a
35 ~~((mercury-containing))~~ light or its components, parts, packaging, or
36 shipping materials for use in the same manner and purpose for which
37 it was originally purchased, or for use again, as in shipping
38 materials, by the generator of the shipping materials.

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

1 ~~((24))~~ (23) "Stakeholder" means a person who may have an
2 interest in or be affected by a product stewardship program.

3 ~~((25))~~ (24) "Stewardship organization" means an organization
4 designated by a producer or group of producers to act as an agent on
5 behalf of each producer to operate a product stewardship program.

6 ~~((26))~~ (25) "Unwanted product" means a ~~((mercury-containing))~~
7 light no longer wanted by its owner or that has been abandoned,
8 discarded, or is intended to be discarded by its owner.

9 (26) "Compact fluorescent lamp" means a compact low-pressure,
10 mercury-containing, electric-discharge light source in which a
11 fluorescent coating transforms some of the ultraviolet energy
12 generated by the mercury discharge into visible light, and includes
13 all of the following characteristics:

14 (a) One base (end cap) of any type including, but not limited to,
15 screw, bayonet, two pins, and four pins;

16 (b) Integrally ballasted or nonintegrally ballasted;

17 (c) Light emission between a correlated color temperature of
18 1700K and 24000K and a Duv of +0.024 and -0.024 in the international
19 commission on illumination (CIE) uniform color space (CAM02-UCS);

20 (d) All tube diameters and all tube lengths;

21 (e) All lamp sizes and shapes for directional and nondirectional
22 installations including, but not limited to, PL, spiral, twin tube,
23 triple twin, 2D, U-bend, and circular.

24 (27) "Lights" includes:

25 (a) Lamps, bulbs, tubes, or other devices that provide functional
26 illumination in homes, businesses, and outdoor stationary fixtures;
27 and

28 (b) Special purpose mercury-containing lights.

29 (28) "Linear fluorescent lamp" means a low-pressure, mercury-
30 containing, electric-discharge light source in which a fluorescent
31 coating transforms some of the ultraviolet energy generated by the
32 mercury discharge into visible light, and includes all of the
33 following characteristics:

34 (a) Two bases (end caps) of any type including, but not limited
35 to, single-pin, two-pin, and recessed double contact;

36 (b) Light emission between a correlated color temperature of
37 1700K and 24000K and a Duv of +0.024 and -0.024 in the CIE CAM02-UCS;

38 (c) All tube diameters including, but not limited to, T5, T8,
39 T10, and T12;

40 (d) All tube lengths from 0.5 to 8.0 feet, inclusive; and

1 (e) All lamp shapes including, but not limited to, linear, U-
2 bend, and circular.

3 (29) "Special purpose mercury-containing light" includes any of
4 the following lights that contain mercury:

5 (a) A lamp designed and marketed exclusively for image capture
6 and projection, including photocopying, printing, either directly or
7 in preprocessing, lithography, film and video projection, and
8 holography; or

9 (b) A lamp that has a high proportion of ultraviolet light
10 emission and is one of the following:

11 (i) A lamp with high ultraviolet content that has ultraviolet
12 power greater than two milliwatts per kilolumen (mW/klm);

13 (ii) A lamp for germicidal use, such as the destruction of DNA,
14 that emits a peak radiation of approximately 253.7 nanometers;

15 (iii) A lamp designed and marketed exclusively for disinfection
16 or fly trapping from which either the radiation power emitted between
17 250 and 315 nanometers represents at least five percent of, or the
18 radiation power emitted between 315 and 400 nanometers represents at
19 least 20 percent of, the total radiation power emitted between 250
20 and 800 nanometers;

21 (iv) A lamp designed and marketed exclusively for the generation
22 of ozone where the primary purpose is to emit radiation at
23 approximately 185.1 nanometers;

24 (v) A lamp designed and marketed exclusively for coral
25 zooxanthellae symbiosis from which the radiation power emitted
26 between 400 and 480 nanometers represents at least 40 percent of the
27 total radiation power emitted between 250 and 800 nanometers;

28 (vi) Any lamp designed and marketed exclusively in a sunlamp
29 product, defined as any electronic product designed to incorporate
30 one or more ultraviolet lamps and intended for irradiation of any
31 part of the living human body, by ultraviolet radiation;

32 (vii) Any lamp designed and marketed exclusively for use in a
33 sunlamp product, as defined in 21 C.F.R. Sec. 1040.20(b)(9) (January
34 1, 2023);

35 (viii) A lamp designed and marketed exclusively for use in
36 medical or veterinary diagnosis or treatment, or in a medical device;

37 (ix) A lamp designed and marketed exclusively for use in the
38 manufacturing or quality control of pharmaceutical products;

39 (x) A lamp designed and marketed exclusively for spectroscopy and
40 photometric applications, such as UV-visible spectroscopy, molecular

1 spectroscopy, atomic absorption spectroscopy, nondispersive infrared
2 (NDIR), Fourier transform infrared (FTIR), medical analysis,
3 ellipsometry, layer thickness measurement, process monitoring, or
4 environmental monitoring; or

5 (xi) A lamp used by academic and research institutions for
6 conducting research projects and experiments.

7 (30) "Urban area" means an area delineated by the United States
8 census bureau, based on a minimum threshold of 2,000 housing units or
9 5,000 people, as of January 1, 2023.

10 **Sec. 6.** RCW 70A.505.030 and 2020 c 20 s 1415 are each amended to
11 read as follows:

12 (1) (a) Every producer of ((mercury-containing)) lights sold, made
13 available for sale, or distributed in or into Washington state for
14 ((retail-sale)) use in Washington state must participate in a product
15 stewardship program for those products, operated by a stewardship
16 organization and financed in the manner provided by RCW 70A.505.050.
17 Every such producer must inform the department of the producer's
18 participation in a product stewardship program by including the
19 producer's name in a plan submitted to the department by a
20 stewardship organization as required by RCW 70A.505.040. Producers
21 must satisfy these participation obligations individually or may do
22 so jointly with other producers.

23 (b) A stewardship organization implementing an approved program
24 under this chapter may continue to implement the approved program in
25 the form and manner described in its plan until December 31, 2025.
26 The provisions of this act apply to programs that a stewardship
27 organization must implement beginning January 1, 2026, and to the
28 rule adoption, fee payment, plan submission, and plan approval
29 processes that predate the implementation of the new program to begin
30 January 1, 2026.

31 (2) ((A)) Until January 1, 2026, a stewardship organization
32 operating a product stewardship program must pay all administrative
33 and operational costs associated with its program with revenues
34 received from the environmental handling charge ((described in RCW
35 70A.505.050. The stewardship organization's administrative and
36 operational costs are not required to include a collection location's
37 cost of receiving, accumulating and storing, and packaging mercury-
38 containing lights. However, a)) imposed under the plan approved by
39 the department prior to the effective date of this section. Beginning

1 January 1, 2026, a stewardship organization operating a product
2 stewardship program must pay all administrative and operational costs
3 associated with its program with revenues received from participating
4 producers. A stewardship organization may offer incentives or
5 payments to collectors. The stewardship organization's administrative
6 and operational costs do not include the collection costs associated
7 with curbside and mail-back collection programs. The stewardship
8 organization must arrange for collection service at locations
9 described in subsection (4) of this section, which may include
10 household hazardous waste facilities, charities, retailers,
11 government recycling sites, or other suitable private locations. No
12 such entity is required to provide collection services at their
13 location. For curbside and mail-back programs, a stewardship
14 organization must pay the costs of transporting (~~mercury-~~
15 ~~containing~~) lights from accumulation points and for processing
16 (~~mercury-containing~~) lights collected by curbside and mail-back
17 programs. For collection locations, including household hazardous
18 waste facilities, charities, retailers, government recycling sites,
19 or other suitable private locations, a stewardship organization must
20 pay the costs of packaging and shipping materials as required under
21 RCW 70A.505.070 or must compensate collectors for the costs of those
22 materials, and must pay the costs of transportation and processing of
23 (~~mercury-containing~~) lights collected from the collection
24 locations.

25 (3) Product stewardship programs shall collect unwanted
26 (~~mercury-containing~~) lights delivered from covered entities for
27 recycling, processing, or final disposition, and (~~not charge~~) are
28 prohibited from charging a fee when lights are sold, dropped off, or
29 delivered into the program.

30 (4) (a) Product stewardship programs shall provide, at a minimum,
31 (~~no cost services in all cities in the state with populations~~
32 ~~greater than ten thousand and all counties of the state on an~~
33 ~~ongoing, year-round basis~~) statewide collection of unwanted lights
34 from covered entities in urban and rural areas of the state,
35 including island communities and geographically isolated areas.

36 (b) To ensure adequate collection coverage, the program must use
37 geographic information modeling to determine the number and
38 distribution of collection sites based on the following criteria: At
39 least 90 percent of Washington residents must have a permanent
40 collection site within a 15-mile radius; and unless otherwise

1 approved by the department, one additional permanent site must be
2 established for every 30,000 residents of each urban area in this
3 state, as delineated by the United States census bureau, distributed
4 to provide convenient and reasonably equitable access for residents.
5 The department may update the definitions of "urban area" used for
6 purposes of this chapter to align with changes made by the United
7 States census bureau.

8 (c) For the portion of the population that does not have a
9 permanent collection location within a 15-mile radius, the program
10 must provide residents a reasonable opportunity to drop off unwanted
11 lights at collection events. The stewardship organization, in
12 consultation with the department and the local community, must
13 determine a reasonable frequency and location of these collection
14 events, to be held in underserved areas.

15 (5) Product stewardship programs shall promote the safe handling
16 and recycling of (~~mercury-containing~~) lights to the public,
17 including producing and offering point-of-sale educational materials
18 to retailers of (~~mercury-containing~~) lights and point-of-return
19 educational materials to collection locations.

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

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

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

29 (9) (a) Product stewardship programs for mercury-containing lights
30 must be fully implemented by January 1, 2015.

31 (b) Product stewardship programs must begin collecting and
32 managing other lights not subject to the requirements of (a) of this
33 subsection by January 1, 2026.

34 **Sec. 7.** RCW 70A.505.040 and 2020 c 20 s 1416 are each amended to
35 read as follows:

36 (1) (a) On June 1st of the year prior to implementation, each
37 producer must ensure that a stewardship organization submits a
38 proposed product stewardship plan on the producer's behalf to the

1 department for approval. Plans approved by the department must be
2 implemented by January 1st of the following calendar year.

3 (b) A stewardship organization that plans to implement a
4 stewardship plan for calendar year 2026 must submit a new or updated
5 plan by June 1, 2025. The new or updated plan under this subsection
6 (1)(b) must address the inclusion of lights in addition to mercury-
7 containing lights under the program and other changes required of
8 program operations by this act.

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

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

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

16 (c) The identity of collection, transportation, and processing
17 service providers, including a description of the consideration given
18 to existing residential curbside collection infrastructure and mail-
19 back systems as an appropriate collection mechanism and a list of all
20 collection sites to be used by the program;

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

26 (e) A description of how the public will be informed about the
27 product stewardship program, including how consumers will be provided
28 with information describing collection opportunities for unwanted
29 ~~((mercury-containing))~~ lights from covered entities and safe handling
30 of mercury-containing lights, waste prevention, and recycling. ~~((The~~
31 ~~description must also include information to make consumers aware~~
32 ~~that an environmental handling charge has been added to the purchase~~
33 ~~price of mercury-containing lights sold at retail to fund the~~
34 ~~mercury-containing light stewardship programs in the state. The~~
35 ~~environmental handling charge may not be described as a department~~
36 ~~recycling fee or charge at the point of retail sale)) These efforts
37 must include the development:~~

38 (i) And maintenance of a website;

39 (ii) And distribution of periodic press releases and articles;

1 (iii) And placement of public service announcements and graphic
2 advertisements for use on social media or other relevant media
3 platforms;

4 (iv) Of promotional materials about the program and the
5 restriction on the disposal of lights in RCW 70A.505.080 to be used
6 by retailers, government agencies, and nonprofit organizations;

7 (v) And distribution of the collection site safety training
8 procedures procedural manual approved by the department to collection
9 sites to help ensure proper management of unwanted lights at
10 collection locations;

11 (vi) And implementation of outreach and educational resources
12 targeted to overburdened communities and vulnerable populations
13 identified by the department under chapter 70A.02 RCW that are
14 conceptually, linguistically, and culturally accurate for the
15 communities served and reach the state's diverse ethnic populations,
16 including through meaningful consultation with communities that bear
17 disproportionately higher levels of adverse environmental and social
18 justice impacts;

19 (vii) And distribution of consumer-focused educational
20 promotional materials to each collection location used by the program
21 and accessible by customers of retailers that sell lights;

22 (viii) And distribution of safety information related to light
23 collection activities to the operator of each collection site; and

24 (ix) And implementation of a periodic survey of public awareness
25 regarding the requirements of the program established under this
26 chapter, carried out at least every five years and the results of
27 which must be shared with the department;

28 (f) A description of the financing system required under RCW
29 70A.505.050;

30 (g) How mercury and other hazardous substances will be handled
31 for collection through final disposition, including:

32 (i) Mercury spill and release response plans for use by
33 collection locations that describes the materials, equipment, and
34 procedures that will be used to respond to any mercury release from
35 an unwanted mercury-containing light; and

36 (ii) Worker safety plans for use by collection locations that
37 describes the handling of the unwanted lights, including unwanted
38 mercury-containing lights, at the collection location and measures
39 that will be taken to protect worker health and safety;

1 (h) How management of materials other than mercury in lights
2 collected by the product stewardship program will prioritize the
3 recycling of materials as a first priority, to the greatest extent
4 practicable consistent with best environmental management and waste
5 reduction practices;

6 ~~((h))~~ (i) A public review and comment process; and

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

11 (3) All plans submitted to the department must be made available
12 for public review on the department's website ~~((and at the~~
13 ~~department's headquarters))~~.

14 ~~((At least two years from the start of the product~~
15 ~~stewardship program and once every four))~~ No less often than three
16 years from the dates specified in subsection (1) of this section and
17 once every five years thereafter, each stewardship organization
18 operating a product stewardship program must update its product
19 stewardship plan and submit the updated plan to the department for
20 review and approval according to rules adopted by the department.

21 (5) By June 1, 2016, and each June 1st thereafter, each
22 stewardship organization must submit an annual report to the
23 department describing the results of implementing the stewardship
24 organization's plan for the prior calendar year, including an
25 independent financial audit once every two years. The department may
26 adopt rules for reporting requirements. Financial information
27 included in the annual report must include but is not limited to:

28 (a) ~~((The))~~ For programs operating until January 1, 2026, the
29 amount of the environmental handling charge assessed on mercury-
30 containing lights and the revenue generated;

31 (b) Identification of confidential information pursuant to RCW
32 43.21A.160 submitted in the annual report; and

33 (c) The cost of the ~~(mercury-containing)~~ lights product
34 stewardship program, including line item costs for:

35 (i) Program operations;

36 (ii) Communications, including media, printing and fulfillment,
37 public relations, and other education and outreach projects;

38 (iii) Administration, including administrative personnel costs,
39 travel, compliance and auditing, legal services, banking services,

1 insurance, and other administrative services and supplies, and
2 stewardship organization corporate expenses; and

3 (iv) Amount of unallocated reserve funds.

4 (6) Beginning in 2023 every stewardship organization must include
5 in its annual report (~~(a)~~):

6 (a) A list of all collection sites, including address and
7 latitude and longitude, anticipated to be used by the program in the
8 upcoming year; and

9 (b) An analysis of the percent of total sales of lights sold at
10 retail to covered entities in Washington that mercury-containing
11 lights constitute, the estimated number of mercury-containing lights
12 in use by covered entities in the state, and the projected number of
13 unwanted mercury-containing lights to be recycled in future years.

14 (7) As a component of all new or updated plans under this chapter
15 submitted by a stewardship organization after August 1, 2023, the
16 stewardship organization must submit:

17 (a) A contingency plan demonstrating how the activities in the
18 plan will continue to be carried out by some other entity, such as an
19 escrow company:

20 (i) Until such time as a new plan is submitted and approved by
21 the department;

22 (ii) Upon the expiration of an approved plan;

23 (iii) In the event that the stewardship organization has been
24 notified by the department that they must transfer implementation
25 responsibility for the program to a different stewardship
26 organization;

27 (iv) In the event that the stewardship organization notifies the
28 department that it will cease to implement an approved plan; or

29 (v) In any other event that the stewardship organization can no
30 longer carry out plan implementation; and

31 (b) Performance goals that measure, on an annual basis, the
32 achievements of the program. Performance goals must take into
33 consideration technical feasibility and economic practicality in
34 achieving continuous, meaningful progress in improving:

35 (i) The rate of light collection for recycling in Washington;

36 (ii) The recycling rate for lights collected by the program;

37 (iii) The level of convenience and access for all residents; and

38 (iv) Public awareness of the program.

39 (8) All plans and reports submitted to the department must be
40 made available for public review, excluding sections determined to be

1 confidential pursuant to RCW 43.21A.160, on the department's website
2 (~~and at the department's headquarters~~).

3 **Sec. 8.** RCW 70A.505.050 and 2020 c 20 s 1417 are each amended to
4 read as follows:

5 (1) (a) Each stewardship organization must (~~recommend to the~~
6 ~~department an environmental handling charge to be added to the price~~
7 ~~of each mercury-containing light sold in or into the state of~~
8 ~~Washington for sale at retail. The environmental handling charge must~~
9 ~~be designed to provide revenue necessary and sufficient to cover all~~
10 ~~administrative and operational costs associated with the stewardship~~
11 ~~program described in the department-approved product stewardship plan~~
12 ~~for that organization, including the department's annual fee required~~
13 ~~by subsection (5) of this section, and a prudent reserve. The~~
14 ~~stewardship organization must consult with collectors, retailers,~~
15 ~~recyclers, and each of its participating producers in developing its~~
16 ~~recommended environmental handling charge. The environmental handling~~
17 ~~charge may, but is not required to, vary by the type of mercury-~~
18 ~~containing light. In developing its recommended environmental~~
19 ~~handling charge, the stewardship organization must take into~~
20 ~~consideration and report to the department:~~

21 ~~(a) The anticipated number of mercury-containing lights that will~~
22 ~~be sold to covered entities in the state at retail during the~~
23 ~~relevant period;~~

24 ~~(b) The number of unwanted mercury-containing lights delivered~~
25 ~~from covered entities expected to be recycled during the relevant~~
26 ~~period;~~

27 ~~(c) The operational costs of the stewardship organization as~~
28 ~~described in RCW 70A.505.030(2);~~

29 ~~(d) The administrative costs of the stewardship organization~~
30 ~~including the department's annual fee, described in subsection (5) of~~
31 ~~this section; and~~

32 ~~(e) The cost of other stewardship program elements including~~
33 ~~public outreach.~~

34 (2) The department must review, adjust if necessary, and approve
35 the stewardship organization's recommended environmental handling
36 charge within sixty days of submittal. In making its determination,
37 the department shall review the product stewardship plan and may
38 consult with the producers, the stewardship organization, retailers,
39 collectors, recyclers, and other entities.

1 ~~(3) No sooner than January 1, 2015:~~

2 ~~(a) The mercury-containing light environmental handling charge~~
3 ~~must be added to the purchase price of all mercury-containing lights~~
4 ~~sold to Washington retailers for sale at retail, and each Washington~~
5 ~~retailer shall add the charge to the purchase price of all mercury-~~
6 ~~containing lights sold at retail in this state, and the producer~~
7 ~~shall remit the environmental handling charge to the stewardship~~
8 ~~organization in the manner provided for in the stewardship plan; or~~

9 ~~(b) Each Washington retailer must add the mercury-containing~~
10 ~~light environmental handling charge to the purchase price of all~~
11 ~~mercury-containing lights sold at retail in this state, where the~~
12 ~~retailer, by voluntary binding agreement with the producer, arranges~~
13 ~~to remit the environmental handling charge to the stewardship~~
14 ~~organization on behalf of the producer in the manner provided for in~~
15 ~~the stewardship plan. Producers may not require retailers to opt for~~
16 ~~this provision via contract, marketing practice, or any other means.~~
17 ~~The stewardship organization must allow retailers to retain a portion~~
18 ~~of the environmental handling charge as reimbursement for any costs~~
19 ~~associated with the collection and remittance of the charge.~~

20 ~~(4) At any time, a stewardship organization may submit to the~~
21 ~~department a recommendation for an adjusted environmental handling~~
22 ~~charge for the department's review, adjustment, if necessary, and~~
23 ~~approval under subsection (2) of this section to ensure that there is~~
24 ~~sufficient revenue to fund the cost of the program, current deficits,~~
25 ~~or projected needed reserves for the next year. The department must~~
26 ~~review the stewardship organization's recommended environmental~~
27 ~~handling charge and must adjust or approve the recommended charge~~
28 ~~within thirty days of submittal if the department determines that the~~
29 ~~charge is reasonably designed to meet the criteria described in~~
30 ~~subsection (1) of this section.~~

31 (5)) develop, and continually improve over the years of program
32 implementation, a system to collect charges from participating
33 producers to cover the costs of plan implementation in an
34 environmentally sound and socially just manner that encourages the
35 use of design attributes that reduce the environmental impacts of
36 lights, such as by:

37 (i) Encouraging the use of recycling content; and

38 (ii) Discourage the use of hazardous, toxic, or difficult-to-
39 recycle materials.

1 (b) The amendments to the method of financing the program
2 described in this act must be implemented by a stewardship
3 organization by January 1, 2026.

4 (2) Each stewardship organization is responsible for all costs of
5 participating covered light collection, transportation, processing,
6 education, administration, agency reimbursement, recycling, and end-
7 of-life management in accordance with environmentally sound
8 management practices.

9 (3) (a) A stewardship organization must reimburse local
10 governments for demonstrable costs incurred as a result of a local
11 government facility or solid waste handling facility serving as a
12 collection location for a program including, but not limited to,
13 associated labor costs and other costs associated with accessibility
14 and collection site standards, such as storage.

15 (b) A stewardship organization must include in its plan, and
16 provide upon request, a template of the service agreement and any
17 other forms, contracts, or other documents for use in distribution of
18 reimbursements. The service agreement template must be developed with
19 local government input. The entities seeking or receiving
20 reimbursement from the stewardship organization are not required to
21 use the template agreement included in the program plan and are not
22 limited to the terms of the template agreement included in the
23 program plan.

24 (4) Beginning March 1, ((2015)) 2024, and each year thereafter,
25 each stewardship organization shall pay to the department an annual
26 fee ((equivalent to three thousand dollars for each participating
27 producer)) to cover the department's administrative and enforcement
28 costs. The amount paid under this section must be deposited into the
29 light product stewardship programs account created in RCW
30 70A.505.120.

31 **Sec. 9.** RCW 70A.505.060 and 2010 c 130 s 6 are each amended to
32 read as follows:

33 (1) All ~~((mercury-containing))~~ lights collected in the state by
34 product stewardship programs or other collection programs must be
35 recycled and any process residuals must be managed in compliance with
36 applicable laws.

37 (2) Mercury recovered from retorting and other hazardous
38 materials must be recycled or placed in a properly permitted

1 hazardous waste landfill, or placed in a properly permitted mercury
2 repository.

3 **Sec. 10.** RCW 70A.505.070 and 2010 c 130 s 7 are each amended to
4 read as follows:

5 (1) Except for persons involved in registered mail-back programs,
6 a person who collects unwanted (~~mercury-containing~~) lights in the
7 state, receives funding through a product stewardship program for
8 (~~mercury-containing~~) lights, and who is not a generator of unwanted
9 (~~mercury-containing~~) lights must(~~(~~

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

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

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

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

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

1 **Sec. 11.** RCW 70A.505.100 and 2010 c 130 s 10 are each amended to
2 read as follows:

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

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

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

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

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

32 ~~(6) A producer may appeal penalties prescribed under this section~~
33 ~~to the pollution control hearings board created under chapter 43.21B~~
34 ~~RCW)) may administratively impose a civil penalty on a person who~~
35 ~~violates this chapter in an amount of up to \$1,000 per violation per~~
36 ~~day.~~

37 (b) The department may administratively impose a civil penalty of
38 up to \$10,000 per violation per day on a person for repeated
39 violations of this chapter or failure to comply with an order issued
40 under (c) of this subsection.

1 (c) Whenever on the basis of any information the department
2 determines that a person has violated or is in violation of this
3 chapter, including the failure by a stewardship organization to
4 achieve performance goals proposed in a plan, the department may
5 issue an order requiring compliance. A person who fails to take
6 corrective action as specified in a compliance order is liable for a
7 civil penalty as provided in (b) of this subsection, without
8 receiving a written warning prescribed in (e) of this subsection.

9 (d) A person who is issued an order or incurs a penalty under
10 this section may appeal the order or penalty to the pollution control
11 hearings board established by chapter 43.21B RCW.

12 (e) Prior to imposing penalties under this section, the
13 department must provide a producer, retailer, or stewardship
14 organization with a written warning for the first violation by the
15 producer, retailer, or stewardship organization of the requirements
16 of this chapter. The written warning must inform a producer,
17 retailer, or stewardship organization that it must participate in an
18 approved plan or otherwise come into compliance with the requirements
19 of this chapter within 30 days of the notice. A producer, retailer,
20 or stewardship organization that violates a provision of this chapter
21 after the initial written warning may be assessed a penalty as
22 provided in this subsection.

23 (2) (a) Upon the department notifying a stewardship organization
24 that it has not met a significant requirement of this chapter, the
25 department may, in addition to assessing the penalties provided in
26 this section, take any combination of the following actions:

27 (i) Issue corrective action orders to a producer or stewardship
28 organization;

29 (ii) Issue orders to a stewardship organization to provide for
30 the continued implementation of the program in the absence of an
31 approved plan;

32 (iii) Revoke the stewardship organization's plan approval and
33 require the stewardship organization to implement its contingency
34 plan under RCW 70A.505.040;

35 (iv) Require a stewardship organization to revise or resubmit a
36 plan within a specified time frame; or

37 (v) Require additional reporting related to compliance with the
38 significant requirement of this chapter that was not met.

39 (b) Prior to taking the actions described in (a) (iii) of this
40 subsection, the department must provide the stewardship organization

1 or a producer an opportunity to respond to or rebut the written
2 finding upon which the action is predicated.

3 **Sec. 12.** RCW 70A.505.110 and 2010 c 130 s 11 are each amended to
4 read as follows:

5 (1) The department shall provide on its website a list of all
6 producers participating in a product stewardship plan that the
7 department has approved and a list of all producers the department
8 has identified as noncompliant with this chapter and any rules
9 adopted to implement this chapter.

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

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

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

24 (b) The department must review new, updated, and revised plans
25 submitted by stewardship organizations. The department must:

26 (i) Review new, updated, and revised stewardship organization
27 plans within 120 days of receipt of a complete plan;

28 (ii) Make a determination as to whether or not to approve a plan,
29 plan update, or plan revision and notify the stewardship organization
30 of the:

31 (A) Determination of approval if a plan provides for a program
32 that meets the requirements of this chapter; or

33 (B) Reasons for not approving a plan. The stewardship
34 organization must submit a new or revised plan within 60 days after
35 receipt of the letter of disapproval. In the event that a new or
36 revised plan submitted by a stewardship organization does not
37 sufficiently meet the requirements of this chapter, including any
38 deficiencies identified in the initial letter of disapproval, the
39 department may:

1 (I) Use the enforcement powers specified in this chapter; or
2 (II) Amend the contents of the insufficient new or revised plan
3 in a manner that ensures that the plan meets the requirements of this
4 chapter and the department may require the stewardship organization
5 to implement the plan as amended by the department.

6 (c) The approval of a plan by the department does not relieve
7 producers participating in the plan from responsibility for
8 fulfilling the requirements of this chapter.

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

19 ~~(6))~~ The department shall adopt rules to implement this
20 ~~((section))~~ chapter.

21 ~~((7))~~ (6) A sale or purchase of ~~((mercury-containing))~~ lights
22 as a casual or isolated sale as defined in RCW 82.04.040 is not
23 subject to the provisions of this section.

24 ~~((8))~~ (7) A person primarily engaged in the business of reuse
25 and resale of ~~((a))~~ used ~~((mercury-containing))~~ lights is not subject
26 to the provisions of this section when selling used working
27 ~~((mercury-containing))~~ lights, for use in the same manner and purpose
28 for which ~~((it was))~~ the lights were originally purchased.

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

33 **Sec. 13.** RCW 70A.505.120 and 2017 c 254 s 3 are each amended to
34 read as follows:

35 The light product stewardship programs account is created in the
36 custody of the state treasurer. All funds received from producers and
37 stewardship organizations under this chapter and penalties collected
38 under this chapter must be deposited in the account. Expenditures
39 from the account may be used only for administering this chapter. The

1 department may not retain fees in excess of the estimated amount
2 necessary to cover the agency's administrative costs over the coming
3 year related to the (~~mercury~~) light stewardship program under this
4 chapter. Beginning with the state fiscal year 2018, by October 1st
5 after the closing of each state fiscal year, the department shall
6 refund any fees collected in excess of its estimated administrative
7 costs to any approved stewardship organization under this chapter.
8 Only the director of the department or the director's designee may
9 authorize expenditures from the account. The account is subject to
10 the allotment procedures under chapter 43.88 RCW, but an
11 appropriation is not required for expenditures.

12 **Sec. 14.** RCW 70A.505.130 and 2010 c 130 s 14 are each amended to
13 read as follows:

14 (1) The department may adopt rules necessary to implement,
15 administer, and enforce this chapter.

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

19 (~~3~~) By (~~December 31, 2010~~) November 1, 2028, and (~~annually~~
20 ~~thereafter until~~) December 31, (~~2014~~) 2034, the department shall
21 report to the appropriate committees of the legislature concerning
22 the status of the product stewardship program and recommendations for
23 changes to the provisions of this chapter.

24 (~~4~~ Beginning October 1, 2014, the) (3) The department shall
25 annually invite comments from local governments, communities, and
26 (~~citizens~~) residents to report their satisfaction with services
27 provided by product stewardship programs created under this chapter.
28 This information (~~must~~) may be used by the department to determine
29 if the plan operator is meeting convenience requirements and in
30 reviewing proposed updates or changes to product stewardship plans.

31 (~~5~~ Beginning October 1, 2014, the department shall annually
32 invite comments from retailers, consumer groups, electric utilities,
33 the Northwest power and conservation council, and other interested
34 parties regarding the impacts of the requirements of this chapter on
35 the availability or purchase of energy efficient lighting within the
36 state. If the department determines that evidence shows the
37 requirements of this chapter have resulted in negative impacts on the
38 availability or purchase of energy efficient lighting in the state,
39 the department shall report this information by December 31st of each

1 year to the appropriate committees of the legislature with
2 recommendations for changes to the provisions of this chapter.

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

14 ~~(7))~~ (4) Beginning October 1, 2014, the department shall
15 annually estimate the overall statewide recycling rate for mercury-
16 containing lights and, beginning October 1, 2026, for other lights
17 covered by the requirements of this chapter and calculate that
18 portion of the recycling rate attributable to the product stewardship
19 program. The department may require a stewardship organization to
20 submit data as needed for the department to make the estimations
21 required by this subsection.

22 ~~((8))~~ (5) The department may require submission of independent
23 performance evaluations and report evaluations documenting the
24 effectiveness of mercury vapor barrier packaging in preventing the
25 escape of mercury into the environment. The department may restrict
26 the use of packaging for which adequate documentation has not been
27 provided. Restricted packaging may not be used in any product
28 stewardship program required under this chapter.

29 **Sec. 15.** RCW 70A.505.160 and 2014 c 119 s 6 are each amended to
30 read as follows:

31 (1) It is the intent of the legislature that a producer, group of
32 producers, stewardship organization preparing, submitting, and
33 implementing a ~~((mercury-containing))~~ light product stewardship
34 program pursuant to this chapter, as well as participating entities
35 in the distribution chain, including retailers and distributors, are
36 granted immunity, individually and jointly, from federal and state
37 antitrust liability that might otherwise apply to the activities
38 reasonably necessary for implementation and compliance with this
39 chapter. It is further the intent of the legislature that the

1 activities of the producer, group of producers, stewardship
2 organization, and entities in the distribution chain, including
3 retailers and distributors, in implementing and complying with the
4 provisions of this chapter may not be considered to be in restraint
5 of trade, a conspiracy, or combination thereof, or any other unlawful
6 activity in violation of any provisions of federal or state antitrust
7 laws.

8 (2) The department shall actively supervise the conduct of the
9 stewardship organization, the producers of ((mercury-containing))
10 lights, and entities in the distribution chain ((in determination and
11 implementation of the environmental handling charge authorized by
12 this chapter)).

13 **Sec. 16.** RCW 82.04.660 and 2020 c 20 s 1469 are each amended to
14 read as follows:

15 (1) ~~((An exemption from the taxes imposed in this chapter is
16 provided for:~~

17 ~~(a) Producers, with respect to environmental handling charges
18 added to the purchase price of mercury-containing lights either by
19 the producer or a retailer pursuant to an agreement with the
20 producer;~~

21 ~~(b) Retailers, with respect to environmental handling charges
22 added to the purchase price of mercury-containing lights sold at
23 retail, including the portion of environmental handling charges
24 retained as reimbursement for any costs associated with the
25 collection and remittance of the charges; and~~

26 ~~(c) Stewardship organizations, with respect to environmental
27 handling charges received from producers and retailers)) This chapter
28 does not apply to the receipts of a stewardship organization formed
29 under chapter 70A.505 RCW from charges to participating producers
30 under a stewardship program as provided in RCW 70A.505.050.~~

31 (2) This section is not subject to the requirements of RCW
32 82.32.805 and 82.32.808.

33 (3) For purposes of this section, the definitions in RCW
34 70A.505.020 apply.

35 **Sec. 17.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to
36 read as follows:

37 (1) The hearings board shall only have jurisdiction to hear and
38 decide appeals from the following decisions of the department, the

1 director, local conservation districts, the air pollution control
2 boards or authorities as established pursuant to chapter 70A.15 RCW,
3 local health departments, the department of natural resources, the
4 department of fish and wildlife, the parks and recreation commission,
5 and authorized public entities described in chapter 79.100 RCW:

6 (a) Civil penalties imposed pursuant to RCW 18.104.155,
7 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.505.100,
8 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050,
9 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 76.09.170,
10 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
11 90.56.310, 90.56.330, and 90.64.102.

12 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
13 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
14 70A.245.020, 70A.65.200, 70A.505.100, 86.16.020, 88.46.070,
15 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

16 (c) Except as provided in RCW 90.03.210(2), the issuance,
17 modification, or termination of any permit, certificate, or license
18 by the department or any air authority in the exercise of its
19 jurisdiction, including the issuance or termination of a waste
20 disposal permit, the denial of an application for a waste disposal
21 permit, the modification of the conditions or the terms of a waste
22 disposal permit, or a decision to approve or deny an application for
23 a solid waste permit exemption under RCW 70A.205.260.

24 (d) Decisions of local health departments regarding the grant or
25 denial of solid waste permits pursuant to chapter 70A.205 RCW.

26 (e) Decisions of local health departments regarding the issuance
27 and enforcement of permits to use or dispose of biosolids under RCW
28 70A.226.090.

29 (f) Decisions of the department regarding waste-derived
30 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
31 decisions of the department regarding waste-derived soil amendments
32 under RCW 70A.205.145.

33 (g) Decisions of local conservation districts related to the
34 denial of approval or denial of certification of a dairy nutrient
35 management plan; conditions contained in a plan; application of any
36 dairy nutrient management practices, standards, methods, and
37 technologies to a particular dairy farm; and failure to adhere to the
38 plan review and approval timelines in RCW 90.64.026.

1 (h) Any other decision by the department or an air authority
2 which pursuant to law must be decided as an adjudicative proceeding
3 under chapter 34.05 RCW.

4 (i) Decisions of the department of natural resources, the
5 department of fish and wildlife, and the department that are
6 reviewable under chapter 76.09 RCW, and the department of natural
7 resources' appeals of county, city, or town objections under RCW
8 76.09.050(7).

9 (j) Forest health hazard orders issued by the commissioner of
10 public lands under RCW 76.06.180.

11 (k) Decisions of the department of fish and wildlife to issue,
12 deny, condition, or modify a hydraulic project approval permit under
13 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
14 comply, to issue a civil penalty, or to issue a notice of intent to
15 disapprove applications.

16 (l) Decisions of the department of natural resources that are
17 reviewable under RCW 78.44.270.

18 (m) Decisions of an authorized public entity under RCW 79.100.010
19 to take temporary possession or custody of a vessel or to contest the
20 amount of reimbursement owed that are reviewable by the hearings
21 board under RCW 79.100.120.

22 (n) Decisions of the department of ecology that are appealable
23 under RCW 70A.245.020 to set recycled minimum postconsumer content
24 for covered products or to temporarily exclude types of covered
25 products in plastic containers from minimum postconsumer recycled
26 content requirements.

27 (o) Orders by the department of ecology under RCW 70A.455.080.

28 (2) The following hearings shall not be conducted by the hearings
29 board:

30 (a) Hearings required by law to be conducted by the shorelines
31 hearings board pursuant to chapter 90.58 RCW.

32 (b) Hearings conducted by the department pursuant to RCW
33 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
34 70A.15.3110, and 90.44.180.

35 (c) Appeals of decisions by the department under RCW 90.03.110
36 and 90.44.220.

37 (d) Hearings conducted by the department to adopt, modify, or
38 repeal rules.

1 (3) Review of rules and regulations adopted by the hearings board
2 shall be subject to review in accordance with the provisions of the
3 administrative procedure act, chapter 34.05 RCW.

4 **Sec. 18.** RCW 70A.230.080 and 2020 c 20 s 1245 are each amended
5 to read as follows:

6 A violation of this chapter, other than a violation of RCW
7 70A.230.020, is punishable by a civil penalty not to exceed (~~one~~
8 ~~thousand dollars~~) \$1,000 for each violation in the case of a first
9 violation. Repeat violators are liable for a civil penalty not to
10 exceed (~~five thousand dollars~~) \$5,000 for each repeat violation.
11 Penalties collected under this section must be deposited in the model
12 toxics control operating account created in RCW 70A.305.180.

13 **Sec. 19.** RCW 70A.505.080 and 2010 c 130 s 8 are each amended to
14 read as follows:

15 Effective January 1, 2013, for mercury-containing lights and
16 January 1, 2026, for other lights:

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

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

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

27 (4) No owner or operator of a solid waste facility may be found
28 in violation of this section if the facility has posted in a
29 conspicuous location a sign stating that (~~mercury-containing~~)
30 lights must be recycled and are not accepted for disposal.

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

34 NEW SECTION. **Sec. 20.** Sections 2, 16, and 18 of this act take
35 effect January 1, 2026.

1 NEW SECTION. **Sec. 21.** Effective January 1, 2026,
2 RCW 70A.505.090 (Producers must participate in an approved product
3 stewardship program) and 2010 c 130 s 9 are each repealed.

4 NEW SECTION. **Sec. 22.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 43.131.421 (Mercury-containing lights product stewardship
7 program—Termination) and 2021 c 65 s 47 & 2014 c 119 s 7;

8 (2) RCW 43.131.422 (Mercury-containing lights product stewardship
9 program—Repeal) and 2021 c 65 s 48, 2017 c 254 s 4, & 2014 c 119 s 8;
10 and

11 (3) RCW 70A.230.150 (Requirement to recycle end-of-life mercury-
12 containing lights) and 2010 c 130 s 8.

13 NEW SECTION. **Sec. 23.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

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