

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-142
HOUSE BILL 1758**

AN ACT TO AMEND THE LAWS GOVERNING THE REMOVAL OF MERCURY SWITCHES FROM VEHICLES.

The General Assembly of North Carolina enacts:

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

"§ 130A-310.50. Definitions.

As used in this Part:

- (1) ~~"Capture rate" means the annual removal, collection, and recovery of mercury switches as a percentage of the total number of mercury switches available for removal from end of life vehicles.~~
- (2) "End-of-life vehicle" means a vehicle that is sold, given, or otherwise conveyed to a vehicle crusher, vehicle dismantler, vehicle recycler, or scrap metal recycling vehicle processing facility for the purpose of recycling.
- (2a) "Inaccessible", when used in connection with mercury switch, means that, due to the condition of the vehicle, the mercury switch cannot be removed from a vehicle without a significant risk of a release of mercury into the environment.
- (3) ~~"Manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that is the last person in the production or assembly process of a new vehicle that utilizes mercury switches, or in the case of an imported vehicle, the importer or domestic distributor of the vehicle.~~
- (4) ~~"Mercury minimization plan" means a plan for removing, collecting, and recovering mercury switches from end of life vehicles that is prepared as provided in G.S. 130A-310.53.~~
- (5) "Mercury switch" means each ~~mercury containing capsule, capsule or assembly containing mercury~~ commonly known as a "bullet", that is part of a convenience light switch assembly installed in a vehicle.
- (5a) "Mercury recovery performance ratio" means the ratio of the number of pounds of mercury recovered from mercury switches from the State in a calendar year to the estimated number of pounds of mercury available to be recovered from mercury switches from the State in the same calendar year.

- (5b) "National mercury recovery performance ratio" means the ratio of the number of pounds of mercury recovered from mercury switches from the United States in a calendar year to the estimated number of pounds of mercury available to be recovered from mercury switches from the United States in the same calendar year.
- (5c) "NVMSRP" means the Memorandum of Understanding to establish the National Vehicle Mercury Switch Recovery Program dated 11 August 2006.
- (6) "Scrap metal recycling vehicle processing facility" means a fixed location where machinery and equipment are used to process scrap metal vehicles into specific grades of scrap metal for sale and whose primary product is scrap iron, scrap steel, or nonferrous metallie serap specification grade commodities including facilities where a shredder or fragmentizer is used to process scrap vehicles into shredded scrap and facilities where end-of-life vehicles are prepared to be shredded.
- (7) "Vehicle" means any passenger automobile or passenger car, station wagon, truck, van, or sport utility vehicle with a gross vehicle weight rating of less than 12,000 pounds.
- (7a) "Vehicle crusher" means a person who engages in the business of flattening, crushing, or otherwise processing end-of-life vehicles for recycling. Vehicle crusher includes, but is not limited to, a person who uses fixed or mobile equipment to flatten or crush end-of-life vehicles for a vehicle recycler or a scrap vehicle processing facility.
- (7b) "Vehicle dismantler" has the same meaning as "vehicle recycler."
- (7c) "Vehicle manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that is the last person in the production or assembly process of a motor vehicle that contains one or more mercury switches, or in the case of an imported vehicle, the importer or domestic distributor of the vehicle. "Vehicle manufacturer" does not include any person engaged in the business of selling new motor vehicles at retail or any person who converts or modifies new motor vehicles after the production or assembly process.
- (8) "Vehicle recycler" means ~~an individual person~~ an individual person or entity engaged in the business of acquiring, dismantling, or destroying six or more end-of-life vehicles in a calendar year for the primary purpose of resale of parts of the ~~vehicle.~~ vehicle, including scrap metal."

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

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

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

(a) ~~A vehicle recycler that conveys ownership of an end of life vehicle to a scrap metal recycling facility shall remove all mercury switches identified in the mercury minimization plan prior to delivery of the vehicle to the scrap metal recycling facility. If~~

~~a mercury switch is inaccessible, the fact that the mercury switch remains in the vehicle shall be noted on the vehicle recycler's invoice. A vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall not flatten, crush, bale, or shred an end-of-life vehicle that contains accessible mercury switches. Except as provided in this subsection, a vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall remove all accessible mercury switches from end-of-life vehicles before the vehicle is flattened, crushed, baled, or shredded, or before the vehicle is conveyed to another vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility. If a vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility conveys an end-of-life vehicle to another vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility without removing accessible mercury switches, the receiving vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility must agree to accept the end-of-life vehicle and assume responsibility for the proper removal of all accessible mercury switches. The agreement to assume responsibility for the proper removal of all accessible mercury switches shall be documented on an invoice that is provided by the vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility to the person to whom the vehicle is conveyed.~~

~~(b) A scrap metal recycling facility that accepts an end-of-life vehicle that has not been flattened, crushed, baled, or shredded and that contains mercury switches shall remove the mercury switches before the end-of-life vehicle is flattened, crushed, baled, or shredded unless the mercury switch is inaccessible. A vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility that removes all accessible mercury switches from an end-of-life vehicle shall mark the vehicle to indicate that all accessible mercury switches have been removed. The vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall certify to any person to whom the vehicle is conveyed, in a form acceptable to the Department, that all accessible mercury switches have been removed from the vehicle.~~

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

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

- ~~(1) The number of vehicles that it processed for recycling.~~
- ~~(2) The number of vehicles from which it removed a mercury switch by make.~~
- ~~(3) The number of vehicles for which it could not remove the mercury switch because the switch was inaccessible.~~

~~(e) Mercury switches that are removed from end-of-life vehicles are considered "universal waste" as defined in 40 Code of Federal Regulations § 273.9 (1 July 2004 2006 Edition). Mercury switches that are removed from end-of-life vehicles shall be~~

collected, transported, treated, stored, disposed of, and otherwise handled in accordance with rules adopted by the Commission governing universal waste.

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

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

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

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

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

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

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

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

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

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

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

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

- (2) Willfully fail to remove a mercury switch when the person is required to do so.
- (3) Knowingly make a false report that a mercury switch has been removed from an end-of-life vehicle.
- (4) Obtain a mercury switch from another source and falsely report that it was removed from a vehicle processed for recycling.

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

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

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

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

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

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

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

- (1) A detailed description ~~and documentation~~ of the mercury recovery performance ratio capture rate achieved ~~achieved~~ by the mercury switch removal program.
- (1a) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.
- (2) In the event that a ~~capture rate~~ mercury recovery performance ratio of at least ~~ninety percent (90%)~~ 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury ~~minimization plan and its implementation.~~ switch removal program.
- (3) The number of mercury switches ~~collected, the number of end of life vehicles containing mercury switches, the number of end of life vehicles processed for recycling,~~ collected and a description of how the mercury switches were managed.
- (4) A statement that details the costs required to implement the mercury ~~minimization plan.~~ switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account."

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

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

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:58 p.m. this 29th day of June, 2007