

SECOND REGULAR SESSION

# HOUSE BILL NO. 2127

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRASER.

Read 1st time March 30, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

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### AN ACT

To amend chapter 260, RSMo, by adding thereto four new sections relating to mercury switches, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 260, RSMo, is amended by adding thereto four new sections, to be known as sections 260.256, 260.257, 260.258, and 260.259, to read as follows:

**260.256 1. As used in sections 260.256 to 260.259, the following terms mean:**

(1) "Capture rate", the number of mercury switches removed from end-of-life vehicles prior to the vehicle being flattened, crushed, baled, shredded, or otherwise processed for recycling as a percentage of the total number of mercury switches available for removal from end-of-life vehicles that are flattened, crushed, shredded, or otherwise processed for recycling;

(2) "Division", the division of environmental quality within the department of natural resources;

(3) "End-of-life vehicle", any vehicle that is sold, given, or otherwise conveyed to a vehicle recycler, a scrap metal recycler, or scrap recycling facility for the purpose of resale of its parts or recycling;

(4) "Manufacturer", a person who 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. Manufacturer shall not include

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 any person engaged in the business of selling vehicles after the production or assembly process;

16 (5) "Mercury minimization plan" or "plan", a plan for removing, collecting, and  
17 recovering mercury switches from end-of-life vehicles;

18 (6) "Mercury switch", each mercury-containing capsule or mercury-containing  
19 switch assembly that is part of an anti-lock braking system installed in a vehicle. An anti-  
20 lock braking system assembly may contain more than one mercury switch;

21 (7) "Person", any individual, partnership, co-partnership, firm, company, limited  
22 liability company, corporation, association, joint stock company, trust, estate, political  
23 subdivision, state agency, or any other legal entity or its legal representative, agent, or  
24 assigns;

25 (8) "Scrap metal recycler", a person who engages in the business of shredding or  
26 otherwise processing end-of-life vehicles or other scrap metal into prepared grades and  
27 whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for  
28 remelting purposes;

29 (9) "Vehicle", any mechanical device on wheels designed primarily for use or used  
30 on highways, except motorized bicycles, vehicles propelled or drawn by horses or human  
31 power, vehicles used exclusively on fixed rails or tracks, cotton trailers, or motorized  
32 wheelchairs operated by handicapped persons;

33 (10) "Vehicle recycler", a person who engages in the business of acquiring,  
34 dismantling, or removing parts from, or destroying six or more end-of-life vehicles in a  
35 calendar year for the primary purpose of reselling the vehicle parts.

260.257. 1. No later than January 1, 2007, every manufacturer of vehicles sold  
2 within this state, either individually or as part of a group, shall develop in consultation  
3 with the division a mercury minimization plan prepared under this section and shall  
4 submit the mercury minimization plan to the division for review and approval.

5 2. The mercury minimization plan prepared and submitted under this section shall  
6 include, but not be limited to, the following:

7 (1) Information identifying the make, model, and year of vehicles, including current  
8 or anticipated future production models that may contain one or more mercury switches,  
9 a description of the mercury switches, a system to mark vehicles to be processed for  
10 shredding or crushing to indicate the presence or absence of mercury switches, the location  
11 of these mercury switches, and the safe and environmentally sound methods for removal  
12 of mercury switches from end-of-life vehicles. To the extent a manufacturer is uncertain  
13 as to the content of a switch installed during the manufacture of a vehicle, the mercury  
14 minimization plan shall presume that the switch is a mercury switch;

15           (2) Educational materials to assist a vehicle recycler or a scrap recycling facility in  
16 undertaking a safe and environmentally sound method for the removal of the mercury  
17 switches from end-of-life vehicles, including information on the hazards related to mercury  
18 and the proper handling of mercury;

19           (3) A proposal for the method of storage or disposal of the mercury switches,  
20 including the method of packaging and shipping mercury switches to authorized recycling,  
21 storage, or disposal facilities;

22           (4) A proposal for the storage of mercury switches collected and recovered from  
23 end-of-life vehicles if environmentally appropriate management technologies are not  
24 available; and

25           (5) A plan for implementing and financing the removal, collection, and recovery  
26 programs for mercury switches installed in vehicles manufactured by the manufacturer  
27 and its predecessors and affiliates as provided in this section. Manufacturers subject to  
28 removal, collection, or recovery programs shall provide to vehicle recyclers, vehicle  
29 crushers, and scrap metal recyclers two dollars for each mercury switch removed by the  
30 vehicle recycler, the vehicle crusher, or the scrap metal recycler, the costs of the containers  
31 in which the mercury switches are collected, and the costs of packaging and transporting  
32 the mercury switches off-site. The manufacturer shall develop a method that ensures  
33 prompt payment.

260.258. 1. Within one hundred twenty days after a mercury minimization plan  
2 has been received, the division shall approve, disapprove, or conditionally approve the  
3 plan. If the entire plan is approved, the manufacturer shall begin implementation within  
4 thirty days after receipt of approval. If the plan is disapproved, the manufacturer shall be  
5 informed by the director why the plan was not approved and will have thirty days  
6 thereafter to submit a new plan. If the plan is conditionally approved, those components  
7 of the plan that were approved shall be implemented within thirty days after receipt of  
8 approval. A revised plan for the disapproved parts shall be submitted to the division  
9 within thirty days after receipt of disapproval. The division shall review and approve,  
10 disapprove, or conditionally approve the revised plan within thirty days after receipt.

11           2. The division may review a mercury minimization plan approved under this  
12 subsection and subsection 1 of this section and recommend modifications to the plan at the  
13 time upon a finding that the approved plan is deficient or is not accomplishing the purpose  
14 for which it was developed.

15           3. Within thirty days of the approval or conditional approval of a mercury  
16 minimization plan under subsections 1 and 2 of this section, a vehicle recycler that sells,  
17 gives, or otherwise conveys ownership of an end-of-life vehicle to a scrap recycling facility

18 for recycling shall remove all mercury switches identified in the approved plan from the  
19 end-of-life vehicle prior to delivery to a scrap recycling facility unless a mercury switch is  
20 inaccessible due to significant damage to the vehicle in the area surrounding the location  
21 of the mercury switch.

22 4. Notwithstanding the provisions of subsection 3 of this section, a scrap recycling  
23 facility may agree to accept an end-of-life vehicle containing mercury switches that has not  
24 been intentionally flattened, crushed, or baled in which case the scrap recycling facility  
25 shall be responsible for removing the mercury switches identified in the mercury  
26 minimization plan approved under subsections 1 and 2 of this section before the end-of-life  
27 vehicle is intentionally flattened, crushed, baled, or shredded.

28 5. A vehicle recycler or scrap recycling facility that removes mercury switches  
29 under subsections 3 to 7 of this section shall maintain records documenting the number of:

- 30 (1) Mercury switches collected;  
31 (2) End-of-life vehicles containing mercury switches;  
32 (3) End-of-life vehicles processed for recycling;  
33 (4) The make and model of vehicles from which mercury switches were removed;  
34 and  
35 (5) Switches collected from each make.

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37 These records shall be made available for review by the division.

38 6. No person shall represent that mercury switches have been removed from an  
39 end-of-life vehicle being sold, given, or otherwise conveyed for recycling if that person has  
40 not removed the mercury switches or arranged with another person to remove the mercury  
41 switches.

42 7. No scrap recycling facility or other person that receives an intentionally  
43 flattened, crushed, or baled end-of-life vehicle shall be in violation of sections 260.256 to  
44 260.259 if a mercury switch is found in the vehicle after its acquisition.

260.259. 1. Within one year after the implementation of a mercury minimization  
2 plan approved under section 260.257 and annually thereafter, each manufacturer shall file  
3 a report detailing the implementation of the mercury minimization plan. The report shall  
4 include, but is not limited to:

5 (1) The number of vehicle recyclers, vehicle crushers, and scrap metal recyclers  
6 participating in the manufacturer's minimization plan during the reported year;

7 (2) The number of mercury switches removed from end-of-life vehicles during the  
8 reported quarter by the vehicle recyclers, vehicle crushers, and scrap metal recyclers  
9 participating in the program;

10           (3) The amount of mercury collected and recycled through the manufacturer's  
11 collection program during the reported calendar quarter;

12           (4) A detailed description and documentation of the capture rate achieved; and

13           (5) A description of additional or alternative actions that may be implemented to  
14 improve the mercury minimization plan and its implementation in the event that mercury  
15 switch capture rate of at least ninety percent is not achieved.

16           2. Any person who violates sections 260.256 to 260.259 shall pay a fine of not more  
17 than one thousand dollars.

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