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I N A S S E M B L Y

January 16, 2014

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the
Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to
disposal of mercury-containing lamps and manufacturer collection and
recycling programs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 27-2113 of the environmental conservation law, as
2 added by chapter 145 of the laws of 2004, subdivision 1 as amended by
3 chapter 676 of the laws of 2005, is amended to read as follows:

4 S 27-2113. Exemptions.

5 [1.] The provisions of this title shall not apply to photographic film
6 and paper, pharmaceutical products, biological products or any substance
7 that may be lawfully sold over the counter without a prescription under
8 the federal Food, Drug and Cosmetic Act, 21 USC 301 et seq. For the
9 purposes of this subdivision, "biological product" means a virus, thera-
10 peutic serum, toxin, antitoxin, vaccine, blood, blood component or
11 derivative, allergenic product or an analogous product, or arsphenamine,
12 or any other trivalent organic arsenic compound used for the prevention,
13 treatment or cure of a disease or condition of human beings.

14 [2. The provisions of subdivision one of section 27-2105 of this title
15 shall not apply to mercury-containing lamps discarded by households.

16 3. The provisions of subdivision one of section 27-2105 of this title
17 shall not apply to mercury-containing lamps discarded by a small busi-
18 ness if such small business discards no more than fifteen mercury-con-
19 taining lamps per month. For the purposes of this subdivision "small
20 business" means any business which is resident in this state, independ-
21 ently owned and operated, not dominant in its field, and employing not
22 more than one hundred individuals.]

23 S 2. The environmental conservation law is amended by adding a new
24 section 27-2119 to read as follows:

25 S 27-2119. MERCURY LAMP COLLECTION PROGRAM.

26 1. DEFINITIONS. "PRODUCER" MEANS A PERSON THAT:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (A) HAS OR HAD LEGAL OWNERSHIP OF THE BRAND, BRAND NAME OR CO-BRAND OF
2 A MERCURY-CONTAINING LAMP SOLD IN OR INTO THIS STATE;

3 (B) IMPORTS OR HAS IMPORTED MERCURY-CONTAINING LAMPS; OR

4 (C) MAKES OR MADE AN UNBRANDED MERCURY-CONTAINING LAMP THAT IS SOLD OR
5 HAS BEEN SOLD IN OR INTO THIS STATE.

6 2. PRODUCER RESPONSIBILITIES. (A) EVERY PRODUCER OF MERCURY-CONTAINING
7 LAMPS SOLD IN OR INTO THIS STATE SHALL, INDIVIDUALLY OR COLLECTIVELY,
8 AND NOT LATER THAN JUNE FIRST, TWO THOUSAND FIFTEEN, SUBMIT A PLAN TO
9 THE DEPARTMENT FOR APPROVAL THAT DESCRIBES A COLLECTION PROGRAM FOR
10 OUT-OF-SERVICE MERCURY-CONTAINING LAMPS. THE COLLECTION PROGRAM SHALL
11 NOT INVOLVE ANY DIRECT COST TO HOUSEHOLDS OR SMALL BUSINESSES FOR
12 PARTICIPATING IN THE PROGRAM. THE COLLECTION PROGRAM SHALL AT A MINIMUM
13 INCLUDE: THE IDENTITY OF COLLECTION, TRANSPORTATION AND PROCESSING
14 SERVICE PROVIDERS, INCLUDING CONSIDERATION GIVEN TO EXISTING RESIDENTIAL
15 CURBSIDE COLLECTION INFRASTRUCTURE AND MAILBACK SYSTEMS AS AN APPROPRI-
16 ATE COLLECTION MECHANISM; HOW MERCURY AND OTHER HAZARDOUS SUBSTANCES
17 WILL BE HANDLED FOR COLLECTION THROUGH FINAL DISPOSITION; THE USE OF ANY
18 THIRD PARTY ORGANIZATIONS THAT MAY CONDUCT ALL OR PART OF THE COLLECTION
19 AND RECYCLING PROGRAM, AND THE SPECIFIC RESPONSIBILITIES OF EACH SUCH
20 ORGANIZATION; AND AN EDUCATION AND OUTREACH PROGRAM.

21 COLLECTION METHODS MAY INCLUDE, BUT ARE NOT LIMITED TO, (I) INDIVIDUAL
22 PRODUCT MAIL RETURN AND/OR MULTIPLE COLLECTION CONTAINERS AND COLLECTION
23 SITES LOCATED AT RETAILERS, MUNICIPALITIES FOR COLLECTION AT HOUSEHOLD
24 HAZARDOUS WASTE COLLECTION FACILITIES, OR HOUSEHOLD HAZARDOUS WASTE
25 EVENTS; (II) THE DISTRIBUTION OF CONTAINERS FOR MERCURY-CONTAINING LAMP
26 COLLECTION; AND (III) CRITERIA TO ENSURE THAT THE CAPTURE RATE OF
27 OUT-OF-SERVICE MERCURY-CONTAINING LAMPS IS MAXIMIZED.

28 (B) NOT LATER THAN DECEMBER FIRST, TWO THOUSAND FIFTEEN, PRODUCERS OF
29 MERCURY-CONTAINING LAMPS SHALL IMPLEMENT THE COLLECTION PROGRAM OUTLINED
30 IN THEIR PLAN.

31 (C) BEGINNING JUNE FIRST, TWO THOUSAND SIXTEEN, AND ANNUALLY THEREAFT-
32 ER, EACH PRODUCER OF MERCURY-CONTAINING LAMPS SHALL SUBMIT A REPORT TO
33 THE DEPARTMENT THAT INCLUDES, AT A MINIMUM, THE FOLLOWING INFORMATION:

34 (I) THE NUMBER OF MERCURY-CONTAINING LAMPS COLLECTED AND RECYCLED BY
35 THE PRODUCER DURING THE PREVIOUS CALENDAR YEAR;

36 (II) THE ESTIMATED TOTAL AMOUNT OF MERCURY CONTAINED IN THE LAMP
37 COMPONENTS COLLECTED BY THAT PRODUCER IN THE PREVIOUS CALENDAR YEAR;

38 (III) AN EVALUATION OF THE EFFECTIVENESS OF THE PRODUCER'S COLLECTION
39 PROGRAM AND ANY FINANCIAL INCENTIVES; AND

40 (IV) AN ACCOUNTING OF THE ADMINISTRATIVE COSTS INCURRED IN THE COURSE
41 OF ADMINISTERING THE COLLECTION AND RECYCLING PROGRAM AND ANY FINANCIAL
42 INCENTIVE PLAN.

43 3. DEPARTMENT RESPONSIBILITIES. (A) WITHIN NINETY DAYS OF RECEIPT OF A
44 COMPLETE PRODUCER PLAN REQUIRED BY SUBDIVISION TWO OF THIS SECTION, THE
45 DEPARTMENT SHALL REVIEW SUCH PLAN AND APPROVE, DENY OR APPROVE WITH
46 MODIFICATIONS EACH PLAN SUBMITTED. THE DEPARTMENT SHALL NOT APPROVE A
47 PLAN UNLESS ALL ELEMENTS OF SUBDIVISION TWO OF THIS SECTION ARE
48 ADEQUATELY ADDRESSED. IN REVIEWING A PLAN, THE DEPARTMENT MAY CONSIDER
49 THE CONSISTENCY OF THE PLAN WITH COLLECTION IN OTHER STATES AND CONSIDER
50 CONSISTENCY BETWEEN PRODUCER PROGRAMS. IN REVIEWING PLANS, THE DEPART-
51 MENT SHALL ENSURE THAT EDUCATION AND OUTREACH PROGRAMS ARE UNIFORM AND
52 CONSISTENT TO ENSURE EASE OF IMPLEMENTATION.

53 (B) THE DEPARTMENT SHALL MAINTAIN AND POST ON ITS WEBSITE A LIST OF
54 ENTITIES AND LOCATIONS THAT SERVE AS COLLECTION POINTS FOR MERCURY-CON-
55 TAINING LAMPS.

1 (C) IN CONJUNCTION WITH THE EDUCATIONAL AND OUTREACH PROGRAMS IMPL-
2 MENTED BY PRODUCERS, THE DEPARTMENT MAY CONDUCT AN EDUCATION AND
3 OUTREACH PROGRAM DIRECTED AT RETAILERS AND HOMEOWNERS TO PROMOTE THE
4 COLLECTION OF DISCARDED MERCURY-CONTAINING LAMPS.

5 (D) BY DECEMBER FIRST, TWO THOUSAND SIXTEEN, AND ANNUALLY THEREAFTER,
6 THE DEPARTMENT SHALL POST A REPORT ON ITS WEBSITE DETAILING THE
7 COLLECTION AND RECYCLING OF MERCURY-CONTAINING LAMPS IN THE STATE. SUCH
8 REPORT SHALL INCLUDE AN EVALUATION OF THE EFFECTIVENESS OF THE
9 COLLECTION AND RECYCLING PROGRAMS, AND INFORMATION ON ACTUAL COLLECTION
10 RATES.

11 S 3. This act shall take effect immediately, provided however that
12 section one of this act shall take effect January 1, 2015.