

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 973

H.P. 675

House of Representatives, March 10, 2009

An Act To Provide for the Safe Collection and Recycling of Mercury-containing Lighting

Reference to the Committee on Natural Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BERRY of Bowdoinham.
Cosponsored by Senator RAYE of Washington and
Representatives: BRYANT of Windham, CAMPBELL of Newfield, FLAHERTY of
Scarborough, GOODE of Bangor, HARVELL of Farmington, HILL of York, HINCK of
Portland, HUNT of Buxton, WALSH INNES of Yarmouth, KNAPP of Gorham,
MacDONALD of Boothbay, McKANE of Newcastle, O'BRIEN of Lincolnville, PETERSON
of Rumford, PIOTTI of Unity, ROTUNDO of Lewiston, Senators: BRANNIGAN of
Cumberland, McCORMICK of Kennebec, PLOWMAN of Penobscot, SMITH of Piscataquis.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 38 MRSA §1672 is enacted to read:

3 **§1672. Mercury-added lamps**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Manufacturer" means a person who owns the brand name of a mercury-added
7 lamp or a person who serves as the importer or domestic distributor of a mercury-
8 added lamp if the brand-name owner is located outside of the United States.

9 B. "Mercury-added lamp" means an electric lamp to which mercury is intentionally
10 added during the manufacturing process, including, but not limited to, linear
11 fluorescent, compact fluorescent, black light, high-intensity discharge, ultraviolet and
12 neon lamps.

13 C. "Person" means any individual, corporation, partnership, cooperative, association,
14 firm, sole proprietorship, government agency or other entity.

15 D. "RoHS directive" means Directive 2002/95/EC, adopted by the European
16 Parliament and the Council of the European Union on January 27, 2003, on the
17 restriction of certain hazardous substances in electrical and electronic equipment, as
18 amended thereafter by the Commission of European Communities.

19 **2. Mercury content standards.** The department shall adopt, implement and enforce
20 mercury content standards for lamps sold or distributed in the State. The standards must
21 be adopted as routine technical rules in accordance with Title 5, chapter 375, subchapter
22 2-A. The standards must be consistent with standards established for lamps sold in the
23 European Union pursuant to the RoHS directive.

24 A. After January 1, 2010, a person may not manufacture a lamp for sale in the State
25 that does not meet the mercury content standards adopted by the department.

26 B. After January 1, 2010, a person may not sell or offer for sale in the State a lamp
27 if:

28 (1) The lamp being sold or offered for sale was manufactured on or after January
29 1, 2010 and does not meet the mercury content standards adopted by the
30 department;

31 (2) The manufacturer of the lamp sold or being offered for sale fails to provide
32 the documentation to the department required by paragraph C; or

33 (3) The manufacturer of the lamp being sold or offered for sale does not provide
34 the certification required in paragraph D.

35 C. At the request of the department, a manufacturer of a lamp sold or being offered
36 for sale in the State shall submit within 28 days of the date of the request technical
37 documents or other information showing that the manufacturer's lamp sold or offered
38 for sale in the State complies with the mercury content standards adopted by the
39 department.

1 D. A manufacturer of a lamp sold or being offered for sale in the State shall:

2 (1) Provide certification to a person who sells or offers for sale that
3 manufacturer's lamp. The certification must attest that the lamp meets the
4 mercury content standards adopted by the department; or

5 (2) Prominently display the certification required by subparagraph (1) on the
6 shipping container or on the packaging of the lamp.

7 3. Mercury-added lamp purchasing. When making purchasing decisions the
8 Department of Administrative and Financial Services, in consultation with the department
9 and the Public Utilities Commission, shall request information on mercury content,
10 energy use and lamp life from potential suppliers and shall prefer lamps with the lowest
11 possible mercury content and, when applicable, energy-efficient, mercury-free digital
12 lighting. Information obtained on mercury content, energy use and lamp life must be
13 made available by the Department of Administrative and Financial Services to other
14 purchasers who purchase a large number of mercury-added lamps.

15 4. Manufacturer recycling programs for household mercury-added lamps.
16 Effective January 1, 2011, each manufacturer offering for sale or distributing mercury-
17 added lamps in the State shall individually or collectively implement a department-
18 approved program for the recycling of mercury-added lamps sold or distributed in the
19 State for household use.

20 A. The recycling program required under this subsection must include:

21 (1) Convenient collection locations located throughout the State where residents
22 can drop off their household lamps without cost;

23 (2) Handling and recycling equipment and practices in compliance with the
24 universal waste rules adopted pursuant to section 1319-O, subsection 1,
25 paragraph F and all other applicable requirements;

26 (3) Effective education and outreach, including, but not limited to, point-of-
27 purchase signs and other materials provided to retail establishments without cost;
28 and

29 (4) An annual report to the department on the number of mercury-added lamps
30 recycled under the manufacturer's program, the estimated percentage of mercury-
31 added lamps available for recycling that were recycled under the program and the
32 methodology for estimating the number of mercury-added lamps available for
33 recycling, an evaluation of the effectiveness of the recycling program,
34 recommendations for increasing the number of lamps recycled under the
35 recycling program and an accounting of the costs associated with administering
36 and implementing the recycling program.

37 B. A manufacturer required to implement a recycling program under this subsection
38 shall submit its proposed recycling program for department review and approval.
39 The department shall solicit public comment on the proposed program before
40 approving or denying the program.

41 C. Beginning April 1, 2011, a manufacturer not in compliance with this section is
42 prohibited from offering any mercury-added lamp for final sale in the State or

1 distributing any mercury-added lamp in the State. A manufacturer not in compliance
2 with this section shall provide support to retailers to ensure the manufacturer's
3 mercury-added lamps are not offered for sale, sold at final sale or distributed in the
4 State.

5 D. Beginning April 1, 2011, a retailer may not offer for final sale a mercury-added
6 lamp produced by a manufacturer not in compliance with this section. The
7 department shall notify retailers of the manufacturers of mercury-added lamps not in
8 compliance with this section.

9 E. If on January 1, 2013 or during a subsequent biennial reporting period under this
10 paragraph the rate at which household mercury-added lamps sold in the State are
11 recycled under manufacturer recycling programs pursuant to this section is not at
12 least 75%, the department may require modifications to the programs. Beginning
13 April 15, 2013, and biennially thereafter, the department shall calculate the
14 percentage of mercury-added lamps recycled from households and report to the joint
15 standing committee of the Legislature having jurisdiction over natural resources
16 matters on the progress made in achieving the recycling goals, any modifications to
17 the manufacturer recycling programs it intends to make to improve mercury-added
18 lamp recycling rates and any recommendations for statutory changes needed to
19 facilitate mercury-added lamp collection and recycling.

20 F. The department may determine that a manufacturer's recycling program is in
21 compliance with paragraph A, subparagraphs (1), (2) and (4) for the collection of
22 compact fluorescent lamps from households if the manufacturer provides adequate
23 financial support for the collection and recycling of such lamps to a conservation
24 program established pursuant to Title 35-A, section 3211-A and implemented by the
25 Public Utilities Commission.

26 **Sec. 2. Recycling program submission date for existing manufacturers.** A
27 manufacturer subject to the Maine Revised Statutes, Title 38, section 1672 and in
28 existence on the effective date of this Act shall submit its proposed recycling program
29 pursuant to Title 38, section 1672, subsection 4, paragraph B by January 1, 2010.

30 **Sec. 3. Report on recycling of mercury-added lamps from businesses.** The
31 Department of Environmental Protection shall submit a report by January 1, 2010 to the
32 Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps
33 from businesses, including, but not limited to, linear fluorescent lamps. The report must
34 include:

- 35 1. An estimate of the number of mercury-added lamps recycled and the recycling
36 rate for mercury-added lamps from businesses over each of the last 3 years;
- 37 2. A comprehensive strategy for improving lamp recycling rates;
- 38 3. Any legislation necessary to implement the strategy proposed in the report; and
- 39 4. The availability of nonmercury lamps to replace mercury-added lamps.

