

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1668

H.P. 1194

House of Representatives, April 30, 2019

**An Act To Implement Recommendations of the Department of
Environmental Protection Regarding the State's Mercury-added
Lamp Law**

Reported by Representative TUCKER of Brunswick for the Joint Standing Committee on Environment and Natural Resources pursuant to Joint Order 2019, H.P. 883.

Reference to the Committee on Environment and Natural Resources suggested and ordered printed pursuant to Joint Rule 218.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 38 MRSA §1672, sub-§1, ¶A-1** is enacted to read:

3 A-1. "Covered entity" means:

4 (1) A household that is located in the State;

5 (2) An elementary school or a secondary school that is located in the State;

6 (3) A business that is located in the State and employs 100 or fewer individuals;
7 or

8 (4) A nonprofit organization that is located in the State, is exempt from taxation
9 under the United States Internal Revenue Code of 1986, Section 501(c)(3) and
10 employs 100 or fewer individuals.

11 **Sec. 2. 38 MRSA §1672, sub-§1, ¶C**, as enacted by PL 2009, c. 272, §1, is
12 amended to read:

13 C. "Municipal collection site" means a solid waste disposal facility, transfer station,
14 storage facility or recycling facility at which mercury-added lamps from ~~households~~
15 covered entities are collected for recycling that is municipally owned or operated or
16 operated by a regional association.

17 **Sec. 3. 38 MRSA §1672, sub-§1, ¶¶E and F** are enacted to read:

18 E. "Population center" means an urbanized area or urban cluster, as defined by the
19 United States Department of Commerce, Bureau of the Census to identify areas of
20 high population density and urban land use with a population of 2,500 or greater.

21 F. "Proprietary information" means information that is a trade secret or production,
22 commercial or financial information the disclosure of which would impair the
23 competitive position of the submitter and which is not otherwise publicly available.

24 **Sec. 4. 38 MRSA §1672, sub-§4**, as amended by PL 2013, c. 315, §2, is further
25 amended to read:

26 **4. Manufacturer recycling programs for mercury-added lamps.** ~~Effective~~
27 ~~January 1, 2011, each~~ Each manufacturer of mercury-added lamps sold or distributed ~~for~~
28 ~~household use~~ in the State for use by covered entities on or after January 1, 2001 shall
29 individually or collectively implement a department-approved program for the recycling
30 of mercury-added lamps from ~~households~~ covered entities.

31 A. The recycling program required under this subsection must include, but is not
32 limited to:

33 (1) Convenient collection ~~locations~~ ~~located~~ sites adequate to serve the needs of
34 covered entities in rural and urban areas throughout the State where ~~residents~~
35 covered entities can drop off ~~their household~~ mercury-added lamps without cost,
36 including but not limited to municipal collection sites and participating retail
37 establishments; The program must include a method of determining the

1 adequate number and geographic distribution of collection sites based on
2 geographic information system modeling.

3 No later than January 1, 2020, the collection system implemented under the
4 program must provide at least 90% of the residents of the State with a permanent
5 collection site within 15 miles of their residence unless the commissioner
6 determines that this requirement is not practicable due to geographic constraints,
7 in which case the commissioner may approve an alternative collection system
8 that includes a geographic distribution of collection sites but that does not
9 otherwise meet this requirement.

10 Unless otherwise approved by the commissioner, the collection system
11 implemented under the program:

12 (a) Must provide at least 2 collection sites within a population center of at
13 least 30,000 residents and an additional collection site for each additional
14 30,000 residents within the population center; and

15 (b) Must ensure that the collection sites required under division (a) are
16 located in a manner that provides residents of the population center with
17 convenient and reasonably equitable access to the collection sites;

18 (2) Handling and recycling equipment and practices in compliance with the
19 universal waste rules adopted pursuant to section 1319-O, subsection 1,
20 paragraph F, with subsection 6 if a crushing device is used and with all other
21 applicable requirements;

22 (3) Effective Provision of education and outreach efforts by a manufacturer to
23 promote the program, which must include, but are not limited to, strategies for
24 education of and outreach to covered entities in all areas of the State and ensuring
25 understanding of collection options by covered entities. The education and
26 outreach, including, but not limited to, must, at a minimum, include posters,
27 window clings and point-of-purchase signs and other materials that are provided
28 to retail establishments collection sites without cost, that can be prominently
29 displayed and that will be easily visible to covered entities; and outreach to the
30 general public, including annual Internet-based media campaigns and print and
31 radio media campaigns conducted in rural and urban areas in the State; and

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

40 (5) A goal of increasing the percentage of the residents of the State that are
41 aware of the requirement to recycle mercury-added lamps and the availability of
42 mercury-added lamp recycling at collection sites implemented under the program
43 to 50% by the end of the 2020 program year and to 80% by the end of the 2023
44 program year;

1 (6) Provisions for routinely evaluating the effectiveness of the education and
2 outreach under subparagraph (3);

3 (7) Procedures for improving the education and outreach under subparagraph (3)
4 if the goal under subparagraph (5) is not achieved;

5 (8) At a minimum, a half-time employee of one or more manufacturers whose
6 job duties are dedicated to implementing the program in the State; and

7 (9) An annual report to the department, which must include, at a minimum:

8 (a) The number of mercury-added lamps recycled under the program;

9 (b) The estimated percentage of mercury-added lamps available for recycling
10 that were recycled under the program and recommendations for program
11 modifications to increase the percentage of lamps recycled under the
12 program;

13 (c) The methodology for estimating the number of mercury-added lamps
14 available for recycling, which must include an assumption of the average
15 lifespan of a lamp by type of lamp and number of lamps sold by type in the
16 years on which the percentage under division (b) is calculated. Proprietary
17 information submitted to the department pursuant to this division that is
18 identified by the manufacturer as proprietary information is confidential and
19 must be handled by the department in the same manner as confidential
20 information is handled under section 1310-B;

21 (d) A description of the education and outreach under subparagraph (3) and
22 an evaluation of the effectiveness of that education and outreach, including a
23 description of the methods used to measure consumer awareness of the
24 requirement to recycle mercury-added lamps and, beginning with the annual
25 report for 2020 and every 2 years thereafter, the results of an assessment of
26 consumer awareness of the program as completed by an independent 3rd-
27 party assessor;

28 (e) The location of and contact information for each collection site
29 established under the program and an assessment of the convenience of the
30 collection system established under the program;

31 (f) An accounting of the costs associated with implementing and
32 administering the program; and

33 (g) Any recommendations for changes to the program to improve the
34 convenience of the collection system, consumer education or program
35 evaluation.

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

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

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

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

8 E. Beginning in 2013, and biennially thereafter, the department shall calculate the
9 percentage of mercury-added lamps recycled from ~~households~~ covered entities and
10 report to the joint standing committee of the Legislature having jurisdiction over
11 natural resources matters on any modifications to the manufacturer recycling
12 programs it intends to make to improve mercury-added lamp recycling rates and any
13 recommendations for statutory changes needed to facilitate mercury-added lamp
14 collection and recycling. The report may be included in the report required pursuant
15 to section 1772, subsection 1.

16 ~~F. The department may determine that a manufacturer's recycling program is in~~
17 ~~compliance with paragraph A, subparagraphs (1), (2) and (4) for the collection of~~
18 ~~compact fluorescent lamps from households if the manufacturer provides adequate~~
19 ~~financial support for the collection and recycling of such lamps to municipalities and~~
20 ~~a conservation program established pursuant to Title 35-A, section 10110 and~~
21 ~~implemented by the Efficiency Maine Trust.~~

22 SUMMARY

23 This bill, which is reported out by the Joint Standing Committee on Environment and
24 Natural Resources pursuant to Joint Order 2019, H.P. 883, implements the Department of
25 Environmental Protection's recommendations regarding the State's mercury-added lamp
26 law as included in the department's annual report on the State's product stewardship
27 programs.

28 The bill makes a number of changes to the State's mercury-added lamp law, including
29 the following.

30 1. It amends the scope of mercury-added lamp recycling programs to require
31 acceptance by such programs of mercury-added lamps from covered entities, which are
32 defined in the bill as households, elementary schools or secondary schools located in the
33 State; businesses located in the State that employ 100 or fewer individuals; and nonprofit
34 organizations located in the State that are exempt from taxation under the United States
35 Internal Revenue Code of 1986, Section 501(c)(3) and employ 100 or fewer individuals.
36 Under current law, such recycling programs are required to accept mercury-added lamps
37 only from households.

38 2. It revises the requirements for mercury-added lamp recycling programs, including
39 provisions regarding collection sites and education and outreach efforts, and adds
40 program performance goals.

1 3. It clarifies the information required to be reported annually to the department by
2 manufacturers of mercury-added lamps.

3 The committee has not taken a position on the substance of the bill and by reporting
4 this bill out, the committee is not suggesting and does not intend to suggest that it agrees
5 or disagrees with any aspect of this bill. The committee is reporting the bill out for the
6 sole purpose of obtaining a printed bill that can be referred to the committee for a public
7 hearing and subsequent committee action in the normal course.