

Chapter 808

(Senate Bill 713)

AN ACT concerning

**Products That Contain Mercury – Prohibition on Sale of Electric Switches,
Electric Relays, and Gas Valve Switches**

FOR the purpose of prohibiting a certain marketer from *knowingly* selling or providing certain electric switches, electric relays, and gas valve switches that contain mercury to a consumer on or after a certain date; establishing certain penalties for certain violations; authorizing the Department of the Environment to impose certain penalties in a certain manner for certain violations; providing for the application of this Act; ~~providing for a delayed effective date;~~ and generally relating to products that contain mercury.

BY renumbering

Article – Environment

Section 6–905.3 through 6–905.6, respectively

to be Section 6–905.4 through 6–905.7, respectively

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section 6–905(a)

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

BY adding to

Article – Environment

Section 6–905(b–1), (b–2), and (c–1) and 6–905.3

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 6–905(e) and (f)

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 6–905.3 through 6–905.6, respectively, of Article – Environment of the Annotated Code of Maryland be renumbered to be Section(s) 6–905.4 through 6–905.7, respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment

6–905.

(a) In this part the following words have the meanings indicated.

(B–1) “ELECTRIC RELAY” MEANS A PRODUCT OR DEVICE THAT OPENS OR CLOSES ELECTRICAL CONTACTS TO EFFECT THE OPERATION OF OTHER DEVICES IN THE SAME OR ANOTHER ELECTRICAL CIRCUIT.

(B–2) “ELECTRIC SWITCH” MEANS A PRODUCT OR DEVICE THAT OPENS OR CLOSES AN ELECTRICAL CIRCUIT.

(C–1) “GAS VALVE SWITCH” MEANS A PRODUCT OR DEVICE THAT OPENS OR CLOSES A GAS VALVE.

(e) “Marketer” means a person that manufactures, assembles, sells, distributes, affixes a brand name or private label to, or licenses the use of a brand name on:

(1) A fever thermometer containing mercury; [or]

(2) A thermostat containing mercury;

(3) AN ELECTRIC SWITCH CONTAINING MERCURY OR A PRODUCT COMPONENT WITH AN ELECTRIC SWITCH CONTAINING MERCURY;

(4) AN ELECTRIC RELAY CONTAINING MERCURY OR A PRODUCT COMPONENT WITH AN ELECTRIC RELAY CONTAINING MERCURY; OR

(5) A GAS VALVE SWITCH CONTAINING MERCURY OR A PRODUCT COMPONENT WITH A GAS VALVE SWITCH CONTAINING MERCURY.

(f) “Mercury–added product” means any of the following products if containing elemental mercury or a mercury compound that has been added to the product for any reason:

(1) Dyes or pigments; AND

(2) [Electric switches; and

(3)] Fluorescent lamps.

6-905.3.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ON OR AFTER OCTOBER 1, 2018, A MARKETER MAY NOT KNOWINGLY SELL OR PROVIDE TO A CONSUMER INDIVIDUALLY OR AS A PRODUCT COMPONENT:

- (1) AN ELECTRIC SWITCH CONTAINING MERCURY;
- (2) AN ELECTRIC RELAY CONTAINING MERCURY; OR
- (3) A GAS VALVE SWITCH CONTAINING MERCURY.

(B) THIS SECTION DOES NOT APPLY TO AN ELECTRIC SWITCH, AN ELECTRIC RELAY, OR A GAS VALVE SWITCH THAT IS SOLD OR PROVIDED TO REPLACE A SWITCH OR RELAY THAT IS A COMPONENT OF A LARGER PRODUCT IN USE ON OR BEFORE OCTOBER 1, ~~2017~~ 2018, IF:

- (1) THE LARGER PRODUCT IS USED IN MANUFACTURING;
- (2) THE LARGER PRODUCT IS USED IN A GENERATING, TRANSMISSION, OR DISTRIBUTING FACILITY FOR ELECTRIC ENERGY, GAS, OR WATER;
- (3) THE SWITCH OR RELAY IS INTEGRATED WITH, AND NOT PHYSICALLY SEPARATE FROM, OTHER COMPONENTS OF THE LARGER PRODUCT; ~~OR~~
- (4) THE USE OF THE SWITCH OR RELAY IS REQUIRED UNDER FEDERAL LAW OR REGULATION; OR
- (5) THE MANUFACTURER OF THE LARGER PRODUCT HAS NOT APPROVED FOR USE IN THE LARGER PRODUCT A SWITCH OR RELAY THAT DOES NOT CONTAIN MERCURY.

(C) (1) A PERSON THAT VIOLATES THIS SECTION IS LIABLE FOR A CIVIL PENALTY TO BE COLLECTED IN A CIVIL ACTION IN THE CIRCUIT COURT FOR ANY COUNTY IN THE STATE NOT EXCEEDING:

- (I) \$1,000 FOR A FIRST OFFENSE;
- (II) \$2,500 FOR A SECOND OFFENSE; OR
- (III) \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.

(2) (I) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY, AFTER AN OPPORTUNITY FOR A HEARING, THE DEPARTMENT MAY IMPOSE A FINE FOR EACH VIOLATION OF THIS SECTION, NOT EXCEEDING:

- 1. \$1,000 FOR A FIRST OFFENSE;**
- 2. \$2,500 FOR A SECOND OFFENSE; OR**
- 3. \$5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.**

(II) THE DEPARTMENT SHALL CONSIDER THE FOLLOWING IN ASSESSING THE FINE IN SUBPARAGRAPH (I) OF THIS PARAGRAPH:

- 1. THE WILLFULNESS OF THE VIOLATION;**
- 2. THE EXTENT TO WHICH THE VIOLATION WAS KNOWN, BUT UNCORRECTED, BY THE VIOLATOR;**
- 3. THE EXTENT TO WHICH THE VIOLATION RESULTED IN ACTUAL HARM TO HUMAN HEALTH OR THE ENVIRONMENT;**
- 4. THE NATURE AND DEGREE OF INJURY TO, OR INTERFERENCE WITH, GENERAL WELFARE AND HEALTH; AND**
- 5. THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A PATTERN OF THE SAME OR A SIMILAR TYPE OF VIOLATION BY THE VIOLATOR.**

(3) EACH DAY A VIOLATION CONTINUES IS A SEPARATE OFFENSE UNDER THIS SECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2017~~ ~~2018~~ 2017.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 27, 2017.