

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63-55-219**, as last amended by Chapter 86, Laws of Utah 2005

32 ENACTS:

33 **19-11-101**, Utah Code Annotated 1953

34 **19-11-102**, Utah Code Annotated 1953

35 **19-11-103**, Utah Code Annotated 1953

36 **19-11-104**, Utah Code Annotated 1953

37 **19-11-105**, Utah Code Annotated 1953

38 **19-11-106**, Utah Code Annotated 1953



40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **19-11-101** is enacted to read:

42 **CHAPTER 11. MERCURY SWITCH REMOVAL ACT**

43 **19-11-101. Title.**

44 This chapter is known as the "Mercury Switch Removal Act."

45 Section 2. Section **19-11-102** is enacted to read:

46 **19-11-102. Definitions.**

47 As used in this chapter:

48 (1) "Board" means the Solid and Hazardous Waste Control Board created in Section
49 19-6-103.

50 (2) "Executive secretary" means the executive secretary of the Solid and Hazardous
51 Waste Control Board appointed under Section 19-6-107.

52 (3) "Manufacturer" means the last person in the production or assembly process of a
53 vehicle.

54 (4) "Mercury switch" means a mercury-containing capsule that is part of a convenience
55 light switch assembly installed in a vehicle's hood or trunk.

56 (5) "Person" means an individual, a firm, an association, a partnership, a corporation,
57 the state, or a local government.

58 (6) "Plan" means a plan for removing, collecting, and recovering mercury switches

59 from vehicles.

60 (7) "Vehicle" means any passenger automobile or car, station wagon, truck, van, or
61 sport utility vehicle that may contain one or more mercury switches.

62 Section 3. Section **19-11-103** is enacted to read:

63 **19-11-103. Mercury switch collection plan.**

64 (1) (a) (i) Except as provided by Subsection (1)(c), each manufacturer of any vehicle
65 sold within this state shall submit a plan, accompanied by a fee, to the executive secretary.

66 (ii) The executive secretary shall establish a fee to cover the costs of the plan's review
67 and approval by following the procedures and requirements of Section 63-38-3.2.

68 (b) A manufacturer may develop and submit a plan individually or in cooperation with
69 other manufacturers.

70 (c) If the manufacturer does not know or is uncertain about whether or not a switch
71 contains mercury, the plan shall presume that the switch does contain mercury.

72 (2) The plan shall include:

73 (a) the make, model, and year of any vehicle, including current and anticipated future
74 production models, sold by the manufacturer that may contain one or more mercury switches;

75 (b) the description and location of each mercury switch for each make, model, and year
76 of vehicle;

77 (c) education materials that include:

78 (i) safe and environmentally sound methods for mercury switch removal; and

79 (ii) information about hazards related to mercury and the proper handling of mercury;

80 (d) a method for storage and disposal of the mercury switches, including packaging and
81 shipping of mercury switches to an authorized recycling, storage, or disposal facility;

82 (e) a procedure for the transfer of information among persons involved with the plan to
83 comply with reporting requirements; and

84 (f) a method to implement and finance the plan, which shall include the prompt
85 reimbursement by the manufacturer of costs incurred by:

86 (i) a person removing, collecting, or recovering mercury switches; and

87 (ii) the Division of Solid and Hazardous Waste for administering this chapter.

88 (3) In order to ensure that the costs of removal, collection, and recovery of mercury
89 switches are not borne by any other person, the manufacturers of vehicles sold in the state shall

90 pay:

91 (a) a minimum of \$5 for each mercury switch removed by a person as partial
92 compensation for the labor and other costs incurred in removing the mercury switch;

93 (b) the cost of packaging necessary to store or transport mercury switches to recycling,
94 storage, or disposal facilities;

95 (c) the cost of shipping mercury switches to recycling, storage, or disposal facilities;

96 (d) the cost of recycling, storage, or disposal of mercury switches;

97 (e) the cost of the preparation and distribution of educational materials; and

98 (f) the cost of maintaining all appropriate record-keeping systems.

99 (4) Manufacturers of vehicles sold within this state shall reimburse a person for each
100 mercury switch removed, collected, and recovered without regard to the date on which the
101 mercury switch is removed, collected, or recovered.

102 Section 4. Section **19-11-104** is enacted to read:

103 **19-11-104. Plan approval and implementation.**

104 (1) By following the procedures and requirements of Title 63, Chapter 46a, Utah
105 Administrative Rulemaking Act, the board shall make rules to approve and implement a plan
106 submitted by a manufacturer.

107 (2) These rules shall include:

108 (a) time requirements for plan submission, review, approval, and implementation;

109 (b) a public notice and comment period for a proposed plan; and

110 (c) safety standards for the collection, packaging, transportation, storage, recycling, and
111 disposal of mercury switches.

112 (3) The manufacturer shall ensure that plan implementation occurs by January 1, 2007.

113 (4) The board may require the manufacturer to modify the plan at any time upon
114 finding that an approved plan as implemented has failed to meet the requirements of this
115 chapter.

116 Section 5. Section **19-11-105** is enacted to read:

117 **19-11-105. Reporting requirements.**

118 (1) Each manufacturer that is required to implement a plan shall submit, either
119 individually or in cooperation with other manufacturers, an annual report on the plan's
120 implementation to the board within 90 days after the anniversary of the date on which the

121 manufacturer is required to begin implementation of the plan.

122 (2) The report shall include:

123 (a) the number of mercury switches collected and for which the manufacturer has
124 provided reimbursement;

125 (b) a description of the successes and failures of the plan; and

126 (c) a statement that details the costs required to implement the plan.

127 Section 6. Section **19-11-106** is enacted to read:

128 **19-11-106. Enforcement and penalties.**

129 (1) By following the procedures and requirements of Title 63, Chapter 46b,
130 Administrative Procedures Act, the executive secretary may initiate an administrative action to
131 compel compliance with this chapter and any rules adopted under this chapter.

132 (2) A manufacturer who fails to submit, modify, or implement a plan according to this
133 chapter and rules enacted under the chapter is subject to a civil penalty of not more than \$1,000
134 per day per violation as determined in a hearing under Title 63, Chapter 46b, Administrative
135 Procedures Act.

136 Section 7. Section **63-55-219** is amended to read:

137 **63-55-219. Repeal dates, Title 19.**

138 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2009.

139 (2) Title 19, Chapter 3, Radiation Control Act, is repealed July 1, 2012.

140 (3) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2009.

141 (4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2009.

142 (5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1,
143 2009.

144 (6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July
145 1, 2010.

146 (7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1,
147 2008.

148 (8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2006.

149 (9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2009.

150 (10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2010.

151 (11) Title 19, Chapter 11, Mercury Switch Removal Act, is repealed July 1, 2014.

Legislative Review Note

as of 1-19-06 10:29 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0138

Mercury Switch Removal Act

25-Jan-06

9:59 AM

State Impact

Provisions of this bill can be enacted within existing budgets.

Individual and Business Impact

Individuals removing mercury switches will receive fees from auto manufacturers.

Office of the Legislative Fiscal Analyst