SUBJECT: Creating a mercury switch removal program

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 6 ayes — Bonnen, Howard, T. King, Driver, Kuempel, W. Smith

0 nays

1 absent — Homer

WITNESSES: For — Ramon Alvarez, Environmental Defense; Dale Harman, Texas Chaparral Steel Midlothian, LP and Steel Manufacturers and Recyclers of Texas; Ruben Iguaran (Border Steel Inc. and Steel Manufacturers and Recyclers of Texas; Debbie Lambing, Texas Auto Recyclers Association; Noel Luera, Nucor and Steel Manufacturers and Recyclers of Texas; Luke Metzger, Texas Public Interest Research Group; Michael Nasi, Commercial Metals Co. Steel Group; Michael Peters, SMI-Texas and Steel Manufactures and Recyclers of Texas; Hugh Pettigrew, Texas Auto Recyclers Association; Steve Roane, Gerdau Ameristeel and Steel Manufacturers and Recyclers of Texas; Dan Snyder, Texas Auto Recyclers Association

Against — Casmier Andary, Alliance of Automobile Manufacturers; Anne Nolan Fellows, Ford Motor Co.; Ross Good, Daimler Chrysler

On — David Schanbacher, Texas Commission on Environmental Quality; Ellen Telander, MN Waste Wise

BACKGROUND: Mercury belongs to a class of chemicals known as bioaccumulative and toxic chemicals (PBTs), which are poisonous substances that remain the environment for long periods and become more concentrated over time. It was declared a hazardous air pollutant by the Environmental Protection Agency (EPA) in 1971. According to the federal Agency for Toxic Substances and Disease Registry, long-term human exposure to mercury in either organic or inorganic form can lead to permanent damage to the brain, kidneys, and developing fetuses. Forty states have issued advisories about eating fish that may have high levels of mercury in their tissues.

Cars that were produced by U.S. auto manufacturers before 2003 for sale in the United States generally are equipped with convenience switches that contain mercury, including those that regulate convenience lights under the hood and in the trunk as well as anti-lock breaking systems.

DIGEST:

CSHB 2793 would create a mercury switch removal program in Texas that would comply with federal Clean Air Act guidelines. The bill would create a mercury switch recovery account within general revenue that would include $24 million from the unappropriated balance of the Texas Emissions Reductions Program (TERP) account.

Auto manufacturers. The bill would require auto manufacturers who sell cars in Texas to provide, using existing infrastructure where possible, the following:

- information to TCEQ on the number, type, and location of mercury switches installed in manufacturers' vehicles;
- educational materials on the safe removal of mercury switches for vehicle and scrap metal recyclers;
- methods for packaging and shipping mercury switches to facilities for recycling, storage or disposal;
- methods for recycling and disposal of mercury switches; and
- methods for storing mercury switches in instances where the environmentally appropriate recycling or disposal was not available.

Auto manufacturers would be responsible for paying all costs related to the packaging, shipping, recycling, storing, and disposal of mercury switches. Manufacturers also would pay for educational materials and their distribution at technical assistance workshops. The bill would require manufacturers to provide storage containers for mercury switches to vehicle and scrap metal recycling facilities.

The bill would also require manufactures to report the number of mercury switches recovered and the total amount of mercury contained in the switches. An auto manufacturer no longer would be subject to the program's regulations after 10 years of eliminating mercury switches from its vehicles.

Recyclers. Vehicle recyclers would be required to remove mercury switches from eligible vehicles before crushing, shredding, or transferring

a vehicle to a scrap metal facility for recycling. However, scrap metal recyclers would be allowed to accept vehicles with mercury switches if the facility agreed to remove the switch before crushing or shredding the vehicle. TCEQ would provide a reimbursement of $2 to vehicle and scrap metal facilities for each mercury switch removed.

Recyclers would be required to document the number of mercury switches removed, the number of vehicles processed, and the number of switches that could not be removed as a result of damage to a vehicle. Recyclers would indicate whether or not a vehicle was eligible for the program and certify that all mercury switches had been removed from the vehicle and placed in the proper containers. Records from recycling facilities would be reported annually to TCEQ.

Violations. The bill would prohibit recyclers from requesting compensation from TCEQ for mercury switches that were removed in other states. Also, CSHB 2793 would prohibit false reporting of the removal of mercury switches

TCEQ evaluation. CSHB 2793 would require TCEQ to publish an annual report that would include the percentage of eligible vehicles reached, a comparison of records of recyclers and manufacturers, the number of mercury switches collected, and a description of how the agency managed the switches collected.

The bill would take immediate effect if passed by a two-thirds majority of members in each house. Otherwise, it would take effect September 1, 2005.

SUPPORTERS SAY:

CSHB 2793 would create a low-cost program to prevent mercury pollution from vehicles before it becomes a serious program for industry and the environment. The removal of mercury switches before crushing and shredding would be a better strategy than would forcing steel manufacturers to add millions of dollars worth of unproven technology to try to capture mercury in stack emissions after the steel is melted. Removing mercury switches before crushing and shredding would prevent mercury from being vaporized as the scrap metals from these vehicles are re-melted and remanufactured.

CSHB 2793 would protect the health of Texans, especially that of pregnant women and children. According to a 2001 Centers for Disease

Control and Prevention study, one in 10 American women of childbearing age is at risk for having a baby born with neurological problems due to mercury exposure in utero. Statistically, that means 375,000 babies are at risk every year. Nearly 6 million women of childbearing age already have mercury levels above EPA safety guidelines.

The removal of mercury switches from end-of-use vehicles is quick and easy process. The entire process of removing a switch and documenting the removal takes about five minutes at most. Recyclers already are removing gasoline, oil, and air-conditioner refrigerant, so it would be minimal extra work for them to remove mercury switches also.

Mercury switch removal programs have proven effective in other states. Data from New Jersey's mercury switch program suggests that the removal of mercury switches prior to shredding resulted in a reduction in mercury emissions of about 50 percent. Five states already have adopted laws restricting mercury use, sale, or disposal or laws that require labeling of products containing it, and similar bills are pending in 15 state legislatures. Such mercury removal programs may one day become a federal requirement, and Texas should be proactive in implementing its own program today.

Companies that decide to manufacture and sell vehicles containing mercury should be held financially responsible for their own waste. CSHB 2793 would promote producer responsibility and discourage the use of mercury-containing products in auto manufacturing.

OPPONENTS SAY:

This program would be protectionist and discriminatory by imposing financial burdens on automakers to subsidize participants in the program. In Maine, auto manufactures have had to spend about $200,000 in program startup costs and estimated annual costs of $120,000.

Removing mercury switches from end-of-life vehicles in Texas would not solve the problem of mercury contamination in the water. Much of the mercury found in our state's water originates from other countries, such as China. Also, mercury still may end up in the environment after it has been recycled. The program would not be able to reach a significant number of vehicles, as many of these vehicles would be difficult for auto manufacturers to locate because some manufacturers' records do not identify which cars or trucks actually have mercury switches.

OTHER OPPONENTS SAY:

There are better ways of handing the problem of mercury in the air and water than targeting auto manufactures. Eighty-seven percent of the mercury emitted into the air originates from utility boilers, waste combustors, coal-fired power plants, cement plants, and medical incinerators.

NOTES:

The committee substitute differs from the bill as filled in that the substitute would authorize manufacturers to implement programs as a group. The substitute would transfer $24 million in TERP funds to the program's account and would authorize the creation of a mercury switch recovery account.