

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Environmental Protection Act is amended by changing Sections 3.284 and 22.23b as follows:

(415 ILCS 5/3.284)

Sec. 3.284. Mercury switch. "Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, or makes, breaks, or changes the connection in an electrical circuit, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors.

(Source: P.A. 93-964, eff. 8-20-04.)

(415 ILCS 5/22.23b)

Sec. 22.23b. Mercury and mercury-added products.

(a) Beginning July 1, 2005, no person shall purchase or accept, for use in a primary or secondary school classroom, bulk elemental mercury, chemicals containing mercury

compounds, or instructional equipment or materials containing mercury added during their manufacture. This subsection (a) does not apply to: (i) other products containing mercury added during their manufacture that are used in schools and (ii) measuring devices used as teaching aids, including, but not limited to, barometers, manometers, and thermometers, if no adequate mercury-free substitute exists.

(b) Beginning July 1, 2007, no person shall sell, offer to sell, distribute, or offer to distribute in this State a mercury switch or mercury relay individually or as a product component. For a product that contains one or more mercury switches or mercury relays as a component, this subsection (b) is applicable to each component part or parts and not the entire product. This subsection (b) does not apply to the following:

(1) Mercury switches and mercury relays used in medical diagnostic equipment regulated under the federal Food, Drug, and Cosmetic Act.

(2) Mercury switches and mercury relays used at electric generating facilities.

(3) Mercury switches in thermostats used to sense and control room temperature.

(4) Mercury switches and mercury relays required to be used under federal law or federal contract specifications.

(5) A mercury switch or mercury relay used to replace a mercury switch or mercury relay that is a component in a

larger product in use before ~~prior to~~ July 1, 2007, and one of the following applies:

(A) The larger product is used in manufacturing; or

(B) The mercury switch or mercury relay is integrated and not physically separate from other components of the larger product.

(c) The manufacturer of a mercury switch or mercury relay, or a scientific instrument or piece of instructional equipment containing mercury added during its manufacture, may apply to the Agency for an exemption from the provisions of subsection (a) or (b) of this Section for one or more specific uses of the switch, relay, instrument, or piece of equipment by filing a written petition with the Agency. The Agency may grant an exemption, with or without conditions, if the manufacturer demonstrates the following:

(1) A convenient and widely available system exists for the proper collection, transportation, and processing of the switch, relay, instrument, or piece of equipment at the end of its useful life; and

(2) The specific use or uses of the switch, relay, instrument, or piece of equipment provides a net benefit to the environment, public health, or public safety when compared to available nonmercury alternatives.

Before approving any exemption under this subsection (c) the Agency must consult with other states to promote consistency in the regulation of products containing mercury

added during their manufacture. Exemptions shall be granted for a period of 5 years. The manufacturer may request renewals of the exemption for additional 5-year periods by filing additional written petitions with the Agency. The Agency may renew an exemption if the manufacturer demonstrates that the criteria set forth in paragraphs (1) and (2) of this subsection (c) continue to be satisfied. All petitions for an exemption or exemption renewal shall be submitted on forms prescribed by the Agency.

The Agency must adopt rules for processing petitions submitted pursuant to this subsection (c). The rules shall include, but shall not be limited to, provisions allowing for the submission of written public comments on the petitions.

(d) No later than January 1, 2005, the Agency must submit to the Governor and the General Assembly a report that includes the following:

(1) An evaluation of programs to reduce and recycle mercury from mercury thermostats and mercury vehicle components; and

(2) Recommendations for altering the programs to make them more effective.

In preparing the report the Agency may seek information from and consult with, businesses, trade associations, environmental organizations, and other government agencies.

(e) Mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury

added during their manufacture, are hereby designated as categories of universal waste subject to the streamlined hazardous waste rules set forth in Title 35 of the Illinois Administrative Code, Subtitle G, Chapter I, Subchapter c, Part 733 ("Part 733"). Within 60 days of the effective date of this amendatory Act of the 93rd General Assembly, the Agency shall propose, and within 180 days of receipt of the Agency's proposal the Board shall adopt, rules that reflect this designation and that prescribe procedures and standards for the management of such items as universal waste.

If the United States Environmental Protection Agency adopts streamlined hazardous waste regulations pertaining to the management of mercury switches or mercury relays, or scientific instruments or instructional equipment containing mercury added during their manufacture, or otherwise exempts such items from regulation as hazardous waste, the Board shall adopt equivalent rules in accordance with Section 7.2 of this Act within 180 days of adoption of the federal regulations. The equivalent Board rules may serve as an alternative to the rules adopted under subsection (1) of this subsection (e).

(f) Beginning July 1, 2008, no person shall install, sell, offer to sell, distribute, or offer to distribute a mercury thermostat in this State. For purposes of this subsection (f), "mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air conditioning

equipment. "Mercury thermostat" includes thermostats used to sense and control room temperature in residential, commercial, industrial, and other buildings, but does not include thermostats used to sense and control temperature as a part of a manufacturing or industrial process.

(Source: P.A. 95-452, eff. 8-27-07.)

Section 10. The Mercury Switch Removal Act is amended by changing Section 15 as follows:

(415 ILCS 97/15)

(Section scheduled to be repealed on January 1, 2017)

Sec. 15. Mercury switch collection programs.

(a) Within 60 days of the effective date of this Act, manufacturers of vehicles in Illinois that contain mercury switches must begin to implement a mercury switch collection program that facilitates the removal of mercury switches from end-of-life vehicles before ~~prior to~~ the vehicles are ~~being~~ flattened, crushed, shredded, or otherwise processed for recycling and to collect and properly manage mercury switches in accordance with the Environmental Protection Act and regulations adopted thereunder. In order to ensure that the mercury switches are removed and collected in a safe and consistent manner, manufacturers must, to the extent practicable, use the currently available end-of-life vehicle recycling infrastructure. The collection program must be

designed to achieve capture rates of not less than (i) 35% for the period of July 1, 2006, through June 30, 2007; (ii) 50% for the period of July 1, 2007, through June 30, 2008; and (iii) 70% for the period of July 1, 2008, through June 30, 2009 and for each subsequent period of July 1 through June 30. At a minimum, the collection program must:

(1) Develop and provide educational materials that include guidance as to which vehicles may contain mercury switches and procedures for locating and removing mercury switches. The materials may include, but are not limited to, brochures, fact sheets, and videos.

(2) Conduct outreach activities to encourage vehicle recyclers and vehicle crushers to participate in the mercury switch collection program. The activities may include, but are not limited to, direct mailings, workshops, and site visits.

(3) Provide storage containers to participating vehicle recyclers and vehicle crushers for mercury switches removed under the program.

(4) Provide a collection and transportation system to periodically collect and replace filled storage containers from vehicle recyclers, vehicle crushers, and scrap metal recyclers, either upon notification that a storage container is full or on a schedule predetermined by the manufacturers.

(5) Establish an entity that will serve as a point of

contact for the collection program and that will establish, implement, and oversee the collection program on behalf of the manufacturers.

(6) Track participation in the collection program and the progress of mercury switch removals and collections.

(b) Within 90 days of the effective date of this Act, manufacturers of vehicles in Illinois that contain mercury switches must submit to the Agency an implementation plan that describes how the collection program under subsection (a) of this Section will be carried out for the duration of the program and how the program will achieve the capture rates set forth in subsection (a) of this Section. At a minimum, the implementation plan must:

(A) Identify the educational materials that will assist vehicle recyclers, vehicle crushers, and scrap metal processors in identifying, removing, and properly managing mercury switches removed from end-of-life vehicles.

(B) Describe the outreach program that will be undertaken to encourage vehicle recyclers and vehicle crushers to participate in the mercury switch collection program.

(C) Describe how the manufacturers will ensure that mercury switches removed from end-of-life vehicles are managed in accordance with the Illinois Environmental Protection Act and regulations adopted thereunder.

(D) Describe how the manufacturers will collect and document the information required in the quarterly reports submitted pursuant to subsection (e) of this Section.

(E) Describe how the collection program will be financed and implemented.

(F) Identify the manufacturer's address to which the Agency should send the notice required under subsection (f) of this Section.

The Agency shall review the collection program plans it receives for completeness and shall notify the manufacturer in writing if a plan is incomplete. Within 30 days after receiving a notification of incompleteness from the Agency the manufacturer shall submit to the Agency a plan that contains all of the required information.

(c) The Agency must provide assistance to manufacturers in their implementation of the collection program required under this Section. The assistance shall include providing manufacturers with information about businesses likely to be engaged in vehicle recycling or vehicle crushing, conducting site visits to promote participation in the collection program, and assisting with the scheduling, locating, and staffing of workshops conducted to encourage vehicle recyclers and vehicle crushers to participate in the collection program.

(d) Manufacturers subject to the collection program requirements of this Section shall provide, to the extent practicable, the opportunity for trade associations of vehicle

recyclers, vehicle crushers, and scrap metal recyclers to be involved in the delivery and dissemination of educational materials regarding the identification, removal, collection, and proper management of mercury switches in end-of-life vehicles.

(e) (Blank). ~~For the calendar quarter ending March 31, 2007, and for each calendar quarter thereafter, not later than 45 days following the close of the calendar quarter manufacturers subject to the collection program requirements of this Section must submit to the Agency a quarterly report that contains the following information: (i) the number of vehicle recyclers, vehicle crushers, and scrap metal recyclers participating in the manufacturer's collection program during the reported quarter, (ii) the number of mercury switches removed from end-of-life vehicles during the reported quarter by the vehicle recyclers, vehicle crushers, and scrap metal recyclers participating in the program, and (iii) the amount of mercury collected and recycled through the manufacturer's collection program during the reported calendar quarter.~~

(f) If the reports required under this Act indicate that the capture rates set forth in subsection (a) of this Section for the period of July 1, 2007, through June 30, 2008, or for any subsequent period have not been met the Agency shall provide notice that the capture rate was not met; provided, however, that the Agency is not required to provide notice if it determines that the capture rate was not met due to a force

majeure. The Agency shall provide the notice by posting a statement on its website and by sending a written notice via certified mail to the manufacturers subject to the collection program requirement of this Section at the addresses provided in the manufacturers' collection plans. Once the Agency provides notice pursuant to this subsection (f) it is not required to provide notice in subsequent periods in which the capture rate is not met.

(g) Beginning 30 days after the Agency first provides notice pursuant to subsection (f) of this Section, the following shall apply:

(1) Vehicle recyclers must remove all mercury switches from each end-of-life vehicle before ~~vehicles prior to~~ delivering the vehicle ~~vehicles~~ to an on-site or off-site vehicle crusher or to a scrap metal recycler, provided that a vehicle recycler is not required to remove a mercury switch that is inaccessible due to significant damage to the vehicle in the area surrounding the mercury switch that occurred before ~~prior to~~ the vehicle recycler's receipt of the vehicle in which case the damage must be noted in the records the vehicle recycler is required to maintain under subsection (c) of Section 10 ~~Section 10(e)~~ of this Act.

(2) No vehicle recycler, vehicle crusher, or scrap metal recycler shall flatten, crush, or otherwise process an end-of-life vehicle for recycling unless all mercury switches have been removed from the vehicle, provided that

a mercury switch that is inaccessible due to significant damage to the vehicle in the area surrounding the mercury switch that occurred before ~~prior to~~ the vehicle recycler's, ~~or the vehicle crusher's,~~ or scrap metal recycler's receipt of the vehicle is not required to be removed. The damage must be noted in the records the vehicle recycler or vehicle crusher is required to maintain under subsection (c) of Section 10 ~~Section 10(e)~~ of this Act.

(3) Notwithstanding paragraphs (1) through (2) of this subsection (g) ~~subsection (g)(1) of this Section~~, a scrap metal recycler may agree to accept an end-of-life vehicle that contains one or more mercury switches and that has not been flattened, crushed, shredded, or otherwise processed for recycling provided the scrap metal recycler removes all mercury switches from the vehicle before the vehicle is flattened, crushed, shredded, or otherwise processed for recycling. Scrap metal recyclers are not required to remove a mercury switch that is inaccessible due to significant damage to the vehicle in the area surrounding the mercury switch that occurred before ~~prior to~~ the scrap metal recycler's receipt of the vehicle. The damage must be noted in the records the scrap metal recycler is required to maintain under subsection (c) of Section 10 ~~Section 10(e)~~ of this Act.

(4) Manufacturers subject to the collection program

requirements of this Section must provide to vehicle recyclers, vehicle crushers, and scrap metal recyclers the following compensation for all mercury switches removed from end-of-life vehicles on or after the date of the notice: \$2.00 for each mercury switch removed by the vehicle recycler, vehicle crusher, or the scrap metal recycler, the costs of the containers in which the mercury switches are collected, and the costs of packaging and transporting the mercury switches off-site. Payment of this compensation must be provided in a prompt manner.

(h) In meeting the requirements of this Section manufacturers may work individually or as part of a group of 2 or more manufacturers.

(Source: P.A. 94-732, eff. 4-24-06.)

Section 15. The Mercury-added Product Prohibition Act is amended by changing Section 27 as follows:

(410 ILCS 46/27)

Sec. 27. Sale and distribution of certain mercury-added products prohibited.

(a) On and after July 1, 2008, no person shall sell, offer to sell, or distribute the following mercury-added products in this State:

(1) barometers;

(2) esophageal dilators, bougie tubes, or

gastrointestinal tubes;

(3) flow meters;

(4) hydrometers;

(5) hygrometers;

(6) manometers;

(7) pyrometers;

(8) sphygmomanometers;

(9) thermometers; ~~or~~

(10) psychrometers; ~~or~~

(11) pressure transducers;

(12) rings;

(13) seals; or

(14) sensors.

(b) This Section does not apply to the sale of a mercury-added product listed in paragraphs (1) through (14) ~~(10)~~ of subsection (a) if use of the product is a federal requirement or if the only mercury-added component in the product is a button cell battery.

(c) This Section does not apply to the sale of a mercury-added product listed in paragraphs (1) through (14) ~~(10)~~ of subsection (a) for which an exemption is obtained under this subsection (c). The manufacturer of the product may apply for an exemption for one or more uses of the product by filing a written petition with the Agency. The Agency may grant an exemption, with or without conditions, if the manufacturer demonstrates the following:

(1) a system exists for the proper collection, transportation, and processing of the product at the end of its useful life; and

(2) one of the following applies:

(i) use of the product provides a net benefit to the environment, public health, or public safety when compared to available nonmercury alternatives; or

(ii) technically feasible nonmercury alternatives are not available at comparable cost.

Before ~~Prior to~~ approving an exemption, the Agency may consult with other states to promote consistency in the regulation of the product for which the exemption is requested. The Agency may also publish notice of its receipt of petitions for exemptions on its website and consider public comments submitted in response to the petitions. Exemptions shall be granted for a term of 5 years and may be renewed for additional 5-year terms upon written application by the manufacturer if the manufacturer demonstrates that the criteria of this subsection (c) and the conditions of the product's original exemption approval continue to be met. All petitions for exemptions and exemption renewals shall be submitted on forms prescribed by the Agency.

(Source: P.A. 95-87, eff. 8-13-07.)

Section 99. Effective date. This Act takes effect on July 1, 2012.