

1 AN ACT in relation to public health and environmental
2 protection.

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

5 Section 1. Short title. This Act may be cited as the
6 Mercury-Containing Products Act.

7 Section 5. Findings. The General Assembly finds:

8 (1) That mercury is a potent neurotoxin that can cause
9 long-lasting health problems;

10 (2) That high mercury levels in our State's waterways
11 have forced officials to issue advisories warning certain
12 people to restrict eating predator fish caught from lakes
13 and streams;

14 (3) That mercury can be found in thousands of products
15 and applications;

16 (4) That mercury from consumer products may make its
17 way into waterways when discharged down the drain,
18 incinerated, or landfilled;

19 (5) That accidental mercury spills, breakages, and
20 releases have occurred at schools throughout the country
21 and that these spills have proven costly to clean up and
22 have exposed students, teachers, and administrators to
23 potentially harmful mercury emissions; and

24 (6) That in some cases, reduction or removal of
25 mercury-containing products from the waste stream prior to
26 disposal can be a cost-effective way to reduce mercury from
27 waste management or treatment facilities.

28 Section 10. Definitions. As used in this Act:

29 "Agency" means the Environmental Protection Agency.

30 "Board" means the Illinois Pollution Control Board.

31 "Manufacturer" includes any person that produces a

1 mercury-added product or an importer or domestic distributor of
2 a mercury-added product produced in a foreign country. In the
3 case of a multicomponent product containing mercury, the
4 manufacturer is the last manufacturer to produce or assemble
5 the product. If the mercury-added product is produced in a
6 foreign country, then the manufacturer is the first importer or
7 domestic distributor of that product.

8 "Mercury-added product" means any of the following items if
9 it contains mercury added during manufacture:

10 (A) A switch or other device, individually or as part
11 of another product; used to measure, control, or regulate
12 gas, other fluids, or electricity;

13 (B) A scientific instrument or instructional
14 equipment; and

15 (C) An electric relay or other electrical device.

16 For the purposes of this Act, "mercury-added product" does not
17 include any formulated mercury-added products, including, but
18 not limited to, pharmaceutical products, animal vaccines,
19 biologics, and reagents.

20 "Mercury relay" means a mercury-added product or device
21 that opens or closes electrical contacts to effect the
22 operation of other devices in the same or another electrical
23 circuit. "Mercury relay" includes mercury displacement relays,
24 mercury wetted reed relays, and mercury contact relays.

25 "Mercury switch" means a mercury-added product or device
26 that opens or closes an electrical circuit or gas valve,
27 including mercury float switches actuated by rising or falling
28 liquid levels, mercury tilt switches actuated by a change in
29 the switch position, mercury pressure switches actuated by a
30 change in pressure, mercury temperature switches actuated by a
31 change in temperature, and mercury flame sensors. "Mercury
32 switch" does not include a mercury-added thermostat or switch
33 used in medical diagnostic equipment regulated under the
34 federal Food, Drug, and Cosmetic Act.

35 "Motor vehicle component" means a mercury-added product
36 that is a component in a motor vehicle, including, but not

1 limited to, a mercury headlamp and a mercury light switch.

2 "Mercury thermostat" means a mercury-added product
3 commonly used to sense and, through electrical communication
4 with heating, cooling, or ventilation equipment, control room
5 temperature.

6 "Person" includes an individual, a firm, an association, a
7 partnership, a corporation, a governmental entity, an
8 organization, a joint venture, and any other legal entity.

9 Section 15. Sales and use restrictions.

10 (a) Beginning July 1, 2005, a school may not purchase, for
11 use in a primary or secondary classroom, bulk elemental
12 mercury, chemicals containing mercury compounds, or
13 mercury-added instructional equipment and materials, except
14 mercury-added measuring devices and thermometers for which no
15 adequate substitute exists for use as teaching aids. Other
16 mercury-added products that are used by schools are not subject
17 to this prohibition.

18 (b) Beginning July 1, 2007, a person may not sell or
19 distribute or offer to sell or distribute a mercury switch or
20 mercury relay individually or as a product component. This
21 prohibition does not apply if the switch or relay is used to
22 replace a switch or relay that is a component in a larger
23 product in use prior to July 1, 2007, and one of the following
24 applies:

25 (1) the larger product is used in manufacturing; or

26 (2) the switch or relay is integrated and not
27 physically separate from other components of the larger
28 product.

29 This subsection (b) does not apply to the sale of a mercury
30 switch or mercury relay if use of the switch or relay is
31 required under federal law or federal contract specifications.
32 For a product that contains one or more mercury-added products
33 subject to this Act, this Section is applicable to each
34 component part or parts, and not to the entire product.

1 Section 20. Exemptions.

2 (a) A manufacturer of a mercury-added product subject to
3 this Act may apply to the Agency on or before July 1, 2006 for
4 an exemption from the provisions of this Act for one or more
5 specific uses of a mercury-added product by filing a written
6 petition with the Agency. The Agency may grant an exemption
7 with or without conditions upon finding that:

8 (1) The manufacturer has demonstrated that a
9 convenient and widely available system exists for the
10 proper collection, transportation, and processing of the
11 mercury-added product at the end of its useful life; and

12 (2) The specific use or uses of the mercury-added
13 product provides a net benefit to the environment, public
14 health, or public safety when compared to available
15 nonmercury alternatives.

16 (b) Before approving any exemption under this Act, the
17 Agency must consult with other states and regional
18 organizations to promote consistency in the regulation of
19 mercury-added products. Exemptions may be granted for a term
20 not to exceed 5 years and may be renewed upon written
21 application if the Agency finds that the mercury-containing
22 product continues to meet the criteria for the original
23 approval of the exemption. The Agency must adopt rules for
24 processing exemption applications. These rules must provide
25 for public participation.

26 Section 25. Universal waste rules. On or before July 1,
27 2006, the Board must modify its rules governing universal
28 hazardous waste as appropriate to promote the recycling,
29 recovery, and proper management of elemental mercury and
30 mercury-added products on a statewide basis.

31 Section 30. Report. The Agency must submit a report by
32 January 1, 2005, to the Governor and members of the General
33 Assembly. The report must include:

34 (A) An evaluation of programs to reduce and recycle

1 mercury from mercury thermostats and mercury vehicle
2 components; and

3 (B) Recommendations for altering the programs to make
4 them more effective.

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

8 Section 40. Penalties. A violation of this Act is
9 punishable by a civil penalty not to exceed \$1,000 for each
10 violation in the case of a first violation. Repeat violations
11 are liable for a civil penalty not to exceed \$5,000 for each
12 repeat violation.

13 Section 90. The Environmental Protection Act is amended by
14 changing Section 22.28a as follows:

15 (415 ILCS 5/22.28a)

16 Sec. 22.28a. White goods and end-of-life motor vehicles
17 handled by scrap dealership, ~~or~~ junkyard, or vehicle recycler.

18 (a) No owner, operator, agent, or employee of a junkyard or
19 scrap dealership may knowingly shred, scrap, dismantle,
20 recycle, incinerate, handle, store, or otherwise manage any
21 white good that contains any white good components in violation
22 of this Act or any other applicable State or federal law.
23 Beginning January 1, 2006, no vehicle recycler may knowingly
24 shred, scrap, dismantle, recycle, incinerate, handle, store,
25 or otherwise manage any end-of-life motor vehicle that contains
26 any mercury light switches or mercury headlamps in violation of
27 this Act or any other applicable State or federal law.

28 (b) For the purposes of this Section:

29 (1) The ~~, the~~ terms "white goods" and "white goods
30 components" have the same meaning as in Section 22.28.

31 (2) "Vehicle recycler" means any owner, operator,
32 agent, or employee of a business engaged in the business of
33 acquiring, dismantling, or crushing 6 or more motor

1 vehicles in a calendar year for the primary purpose of
2 resale of their parts or materials.

3 (3) "End-of-life motor vehicle" means any motor
4 vehicle that is sold, given, or otherwise conveyed to a
5 motor vehicle crusher, recycler, or scrap recycling
6 facility for the purposes of recycling.

7 (4) "Mercury light switch" means a mercury switch used
8 for the purpose of turning a light bulb or lamp on and off.

9 (5) "Mercury headlamp" means a mercury-added lamp that
10 is mounted on the front of a motor vehicle to illuminate
11 the roadway.

12 (Source: P.A. 92-447, eff. 8-21-01.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.