



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB0943**

Introduced 2/8/2007, by Rep. Karen May

#### SYNOPSIS AS INTRODUCED:

410 ILCS 46/1  
410 ILCS 46/10  
410 ILCS 46/27 new  
410 ILCS 46/35 new  
415 ILCS 5/22.23b

Amends the Mercury Fever Thermometer Prohibition Act. Changes the title of the Act to the Mercury-added Product Prohibition Act. Defines "mercury-added product". Provides that on and after July 1, 2008, no person shall sell, offer to sell, or distribute certain mercury-added products in this State. Sets out exceptions to the prohibition. Provides that on and after July 1, 2008, no person may sell, offer for sale, or distribute for promotional purposes a mercury-containing manometer of the type used in milking machines on dairy farms in the State. Provides that the Environmental Protection Agency may participate in the establishment and implementation of a regional, multistate clearinghouse to assist in carrying out the requirements of this Act. Amends the Environmental Protection Act. Provides that beginning July 1, 2008, no person shall accept for use as a teaching aid in a primary or secondary school classroom measuring devices containing mercury added during manufacture including, but not limited to, barometers, manometers, and thermometers. Sets out an exemption for devices containing a button cell battery. Provides that beginning July 1, 2008, no person shall install, sell, or offer to sell or distribute for promotional purposes a mercury-added thermostat. Contains other provisions. Effective immediately.

LRB095 08225 CMK 28395 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public safety.

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

4 Section 5. The Mercury Fever Thermometer Prohibition Act is  
5 amended by changing Sections 1 and 10 and by adding Sections 27  
6 and 35 as follows:

7 (410 ILCS 46/1)

8 Sec. 1. Short title. This Act may be cited as the  
9 Mercury-added Product ~~Mercury Fever Thermometer~~ Prohibition  
10 Act.

11 (Source: P.A. 93-165, eff. 1-1-04.)

12 (410 ILCS 46/10)

13 Sec. 10. Definitions. For the purposes of this Act, the  
14 words and terms defined in this Section shall have the meaning  
15 given, unless the context otherwise clearly requires.

16 "Agency" means the Illinois Environmental Protection  
17 Agency.

18 "Mercury fever thermometer" means any device containing  
19 liquid mercury wherein the liquid mercury is used to measure  
20 the internal body temperature of a person.

21 "Mercury-added novelty" means a mercury-added product  
22 intended for personal or household enjoyment, including but not

1 limited to: toys, figurines, adornments, games, cards,  
2 ornaments, yard statues and figurines, candles, jewelry,  
3 holiday decorations, and footwear and other items of apparel.

4 "Mercury-added product" means a product to which mercury is  
5 added intentionally during formulation of manufacture, or a  
6 product containing one or more components to which mercury is  
7 intentionally added during formulation or manufacture.

8 "Health care facility" means any hospital, nursing home,  
9 extended care facility, long-term facility, clinic or medical  
10 laboratory, State or private health or mental institution,  
11 clinic, physician's office, or health maintenance  
12 organization.

13 "Hospital" means any institution, place, building, or  
14 agency, public or private, whether organized for profit or not,  
15 devoted primarily to the maintenance and operation of  
16 facilities for the diagnosis and treatment or care of 2 or more  
17 unrelated persons admitted for overnight stay or longer in  
18 order to obtain medical, including obstetric, psychiatric, and  
19 nursing, care of illness, disease, injury, infirmity, or  
20 deformity.

21 "Person" means any individual, partnership,  
22 co-partnership, firm, company, limited liability company,  
23 corporation, association, joint stock company, trust, estate,  
24 political subdivision, State agency, or non-profit  
25 organization, or any other legal entity.

26 (Source: P.A. 93-165, eff. 1-1-04.)

1 (410 ILCS 46/27 new)

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

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

7 (1) barometers;

8 (2) esophageal dilators, bougie tubes, or  
9 gastrointestinal tubes;

10 (3) flow meters;

11 (4) hydrometers;

12 (5) hygrometers;

13 (6) manometers, other than manometers prohibited from  
14 sale under subsection (d) of this Section;

15 (7) pyrometers;

16 (8) sphygmomanometers;

17 (9) thermometers; or

18 (10) psychrometers.

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

24 (c) This Section does not apply to the sale of a  
25 mercury-added product listed in paragraphs (1) through (10) of

1 subsection (a) for which an exemption is obtained under this  
2 subsection (c). The manufacturer or user of the product may  
3 apply for an exemption by filing a written petition with the  
4 Agency. The Agency may grant an exemption with or without  
5 conditions upon finding that the mercury-added product is  
6 reasonable and appropriate for a specific use. In this  
7 situation, the petitioner must demonstrate that:

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

11 (2) one of the following applies:

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

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

17 Prior to approving an exemption, the Agency may consult  
18 with neighboring states, by means of the interstate  
19 clearinghouse under Section 35, or otherwise, to promote  
20 consistency in the way in which mercury-added products are  
21 regulated. The Agency may request individuals receiving an  
22 exemption to maintain records and provide reasonable reports to  
23 the Department that characterize mercury use. Exemptions may be  
24 granted for a term not to exceed 5 years and may be renewed  
25 upon written application if the Agency finds that the  
26 mercury-added product continues to meet the criteria of this

1 subsection (c) and the manufacturer or other persons comply  
2 with the conditions of its original approval. The Agency shall  
3 adopt rules for processing exemption applications that provide  
4 for public participation, taking into account the role of the  
5 interstate clearinghouse.

6 (d) On and after July 1, 2008, no person may sell, offer  
7 for sale, or distribute for promotional purposes a  
8 mercury-containing manometer of the type used in milking  
9 machines on dairy farms in the State. Manufacturers of such  
10 manometers shall notify wholesalers and retailers about this  
11 ban and shall instruct them on how to properly dispose of the  
12 remaining inventory. The Agency, in consultation with the  
13 Illinois Department of Agriculture, shall conduct a program to  
14 collect and replace mercury-containing manometers already in  
15 use on dairy farms in the State.

16 (410 ILCS 46/35 new)

17 Sec. 35. The Agency may participate in the establishment  
18 and implementation of a regional, multistate clearinghouse to  
19 assist in carrying out the requirements of this Act.

20 Section 10. The Environmental Protection Act is amended by  
21 changing Section 22.23b as follows:

22 (415 ILCS 5/22.23b)

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

1           (a) Beginning July 1, 2005, no person shall purchase or  
2 accept, for use in a primary or secondary school classroom,  
3 bulk elemental mercury, chemicals containing mercury  
4 compounds, or instructional equipment or materials containing  
5 mercury added during their manufacture. This subsection (a)  
6 does not apply to: (i) other products containing mercury added  
7 during their manufacture that are used in schools and (ii)  
8 measuring devices used as teaching aids, including, but not  
9 limited to, barometers, manometers, and thermometers, if no  
10 adequate mercury-free substitute exists.

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

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

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

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

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

1           (5) A mercury switch or mercury relay used to replace a  
2 mercury switch or mercury relay that is a component in a  
3 larger product in use prior to July 1, 2007, and one of the  
4 following applies:

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

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

9           (c) No later than July 1, 2006, the manufacturer of a  
10 mercury switch or mercury relay, or a scientific instrument or  
11 piece of instructional equipment containing mercury added  
12 during its manufacture, may apply to the Agency for an  
13 exemption from the provisions of this Section for one or more  
14 specific uses of the switch, relay, instrument, or piece of  
15 equipment by filing a written petition with the Agency. The  
16 Agency may grant an exemption, with or without conditions, if  
17 the manufacturer demonstrates the following:

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

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

26           Before approving any exemption under this subsection (c)



1 the Agency must consult with other states to promote  
2 consistency in the regulation of products containing mercury  
3 added during their manufacture. Exemptions shall be granted for  
4 a period of 5 years. The manufacturer may request renewals of  
5 the exemption for additional 5-year periods by filing  
6 additional written petitions with the Agency. The Agency may  
7 renew an exemption if the manufacturer demonstrates that the  
8 criteria set forth in paragraphs (1) and (2) of this subsection  
9 (c) continue to be satisfied. All petitions for an exemption or  
10 exemption renewal shall be submitted on forms prescribed by the  
11 Agency.

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

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

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

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

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

1 (e) Mercury switches and mercury relays, and scientific  
2 instruments and instructional equipment containing mercury  
3 added during their manufacture, are hereby designated as  
4 categories of universal waste subject to the streamlined  
5 hazardous waste rules set forth in Title 35 of the Illinois  
6 Administrative Code, Subtitle G, Chapter I, Subchapter c, Part  
7 733 ("Part 733"). Within 60 days of the effective date of this  
8 amendatory Act of the 93rd General Assembly, the Agency shall  
9 propose, and within 180 days of receipt of the Agency's  
10 proposal the Board shall adopt, rules that reflect this  
11 designation and that prescribe procedures and standards for the  
12 management of such items as universal waste.

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

23 (f) Beginning July 1, 2008, no person shall accept for use  
24 as a teaching aid in a primary or secondary school classroom  
25 measuring devices containing mercury added during manufacture  
26 including, but not limited to, barometers, manometers, and

1 thermometers. This subsection (f) does not apply to a  
2 mercury-added measuring device if the only mercury-added  
3 component in the measuring device is a button cell battery.

4 (g) Beginning July 1, 2008, no person shall install, sell,  
5 or offer to sell or distribute for promotional purposes a  
6 mercury-added thermostat. For the purposes of this subsection  
7 (g), a "mercury-added thermostat" means a product or device  
8 that uses a mercury switch to sense and control room  
9 temperature through communication with heating, ventilating,  
10 or air-conditioning equipment. "Mercury-added thermostat"  
11 includes thermostats used to sense and control room temperature  
12 in residential, commercial, industrial, and other buildings  
13 but does not include a thermostat used to sense and control  
14 temperature as part of a manufacturing process.

15 (h) The Agency may participate in the establishment and  
16 implementation of a regional, multistate clearinghouse to  
17 assist in carrying out the requirements of this Section.

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

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.