

1 AN ACT concerning safety.

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

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

6 (415 ILCS 5/22.23b)

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

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

18 (b) Beginning July 1, 2007, no person shall sell, offer to
19 sell, distribute, or offer to distribute a mercury switch or
20 mercury relay individually or as a product component. For a
21 product that contains one or more mercury switches or mercury
22 relays as a component, this subsection (b) is applicable to
23 each component part or parts and not the entire product. This

1 subsection (b) does not apply to the following:

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

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

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

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

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

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

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

19 (c) ~~The No later than July 1, 2006, the~~ manufacturer of a
20 mercury switch or mercury relay, or a scientific instrument or
21 piece of instructional equipment containing mercury added
22 during its manufacture, may apply to the Agency for an
23 exemption from the provisions of subsection (a) or (b) of this
24 Section for one or more specific uses of the switch, relay,
25 instrument, or piece of equipment by filing a written petition
26 with the Agency. The Agency may grant an exemption, with or

1 without conditions, if the manufacturer demonstrates the
2 following:

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

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

11 Before approving any exemption under this subsection (c)
12 the Agency must consult with other states to promote
13 consistency in the regulation of products containing mercury
14 added during their manufacture. Exemptions shall be granted for
15 a period of 5 years. The manufacturer may request renewals of
16 the exemption for additional 5-year periods by filing
17 additional written petitions with the Agency. The Agency may
18 renew an exemption if the manufacturer demonstrates that the
19 criteria set forth in paragraphs (1) and (2) of this subsection
20 (c) continue to be satisfied. All petitions for an exemption or
21 exemption renewal shall be submitted on forms prescribed by the
22 Agency.

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

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

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

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

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

12 (e) Mercury switches and mercury relays, and scientific
13 instruments and instructional equipment containing mercury
14 added during their manufacture, are hereby designated as
15 categories of universal waste subject to the streamlined
16 hazardous waste rules set forth in Title 35 of the Illinois
17 Administrative Code, Subtitle G, Chapter I, Subchapter c, Part
18 733 ("Part 733"). Within 60 days of the effective date of this
19 amendatory Act of the 93rd General Assembly, the Agency shall
20 propose, and within 180 days of receipt of the Agency's
21 proposal the Board shall adopt, rules that reflect this
22 designation and that prescribe procedures and standards for the
23 management of such items as universal waste.

24 If the United States Environmental Protection Agency
25 adopts streamlined hazardous waste regulations pertaining to
26 the management of mercury switches or mercury relays, or

1 scientific instruments or instructional equipment containing
2 mercury added during their manufacture, or otherwise exempts
3 such items from regulation as hazardous waste, the Board shall
4 adopt equivalent rules in accordance with Section 7.2 of this
5 Act within 180 days of adoption of the federal regulations. The
6 equivalent Board rules may serve as an alternative to the rules
7 adopted under subsection (1) of this subsection (e).

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

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

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