



Sen. Heather Steans

**Filed: 3/24/2010**

09600SB3346sam002

LRB096 15744 JDS 39643 a

1 AMENDMENT TO SENATE BILL 3346

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3346, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Mercury Thermostat Collection Act.

7 Section 5. Legislative findings. The General Assembly  
8 finds that:

9 (1) many older thermostats used to activate heating and  
10 cooling equipment contain mercury as part of a tilt switch  
11 component in the thermostat;

12 (2) the total amount of mercury used in each of those  
13 thermostats averages about 4 grams;

14 (3) millions of mercury-containing thermostats are still  
15 in use in homes and businesses in the United States;

16 (4) mercury in those thermostats poses a risk to human

1 health and the environment if those thermostats are not  
2 properly managed at the end of their useful life;

3 (5) the major thermostat manufacturers have established a  
4 voluntary program to facilitate the collection and proper  
5 management of mercury thermostats taken out of service;

6 (6) the annual average of mercury-containing thermostats  
7 collected for recycling in Illinois under the existing  
8 voluntary collection program from 2006 to 2008 was 4,433;

9 (7) thousands of mercury-containing thermostats are taken  
10 out of service annually in the State;

11 (8) it is in the public interest to achieve a significant  
12 increase in the collection and proper management of mercury  
13 thermostats taken out of service in the State.

14 Section 10. Definitions.

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

17 "Board" means the Illinois Pollution Control Board.

18 "Collection program" means a system for the collection,  
19 transportation, recycling, and disposal of out-of-service  
20 mercury thermostats that is financed and managed or provided by  
21 a thermostat manufacturer individually or collectively with  
22 other thermostat manufacturers in accordance with this Act.

23 "Contractor" means a person engaged in the business of  
24 installation, service, or removal of heating, ventilation, and  
25 air-conditioning components.

1 "Mercury thermostat" means a thermostat that meets the  
2 definition of a "mercury thermostat" under subsection (f) of  
3 Section 22.23b of the Environmental Protection Act.

4 "Out-of-service mercury thermostat" means a mercury  
5 thermostat that is removed, replaced, or otherwise taken out of  
6 service.

7 "Person" means any individual, partnership,  
8 co-partnership, firm, company, limited liability company,  
9 corporation, association, joint stock company, trust, estate,  
10 political subdivision, State agency, or any other legal entity,  
11 or its legal representatives, agents, or assigns.

12 "Qualified contractor" means a person engaged in the  
13 business of installation, service, or removal of heating,  
14 ventilation, and air-conditioning components who employs 7 or  
15 more service technicians or installers or who is located in an  
16 area outside of an urban area, as defined by the United States  
17 Bureau of the Census.

18 "Qualified local government authorities" means household  
19 hazardous waste facilities, solid waste management agencies,  
20 environmental management agencies, or departments of public  
21 health.

22 "Thermostat manufacturer" means a person who owns or owned  
23 a name brand of one or more mercury thermostats sold in the  
24 State.

25 "Thermostat retailer" means a person who sells thermostats  
26 of any kind primarily to homeowners or other nonprofessionals

1 through any sale or distribution mechanism, including, but not  
2 limited to, sales using the Internet or catalogs. A thermostat  
3 retailer that meets the definition of thermostat wholesaler  
4 shall be considered a thermostat wholesaler.

5 "Thermostat wholesaler" means a person who is engaged in  
6 the distribution and wholesale selling of heating,  
7 ventilation, and air-conditioning components, including, but  
8 not limited to, thermostats, to contractors, and whose total  
9 wholesale sales account for 80% or more of its total sales. A  
10 thermostat manufacturer, as defined in this Section, is not a  
11 thermostat wholesaler.

12 Section 15. Mercury thermostat collection programs.

13 (a) Each thermostat manufacturer shall, individually or  
14 collectively with other thermostat manufacturers, establish  
15 and maintain a collection program for the collection,  
16 transportation, and proper management of out-of-service  
17 mercury thermostats in accordance with the provisions of this  
18 Act.

19 (b) Each thermostat manufacturer shall, individually or  
20 collectively with other thermostat manufacturers through a  
21 collection program, do the following:

22 (1) On and after January 1, 2011, compile a list of  
23 thermostat wholesalers in the State and offer each  
24 thermostat wholesaler containers for the collection of  
25 out-of-service mercury thermostats.

1           (2) On and after January 1, 2011, make collection  
2 containers available to all qualified contractors,  
3 thermostat wholesalers, thermostat retailers, and units of  
4 local government in this State that request a container.  
5 Each thermostat manufacturer shall with each container  
6 include information regarding the proper management of  
7 out-of-service mercury thermostats as universal waste in  
8 accordance with the collection program and Board's rules.

9           (3) Establish a system to collect, transport, and  
10 properly manage out-of-service mercury thermostats from  
11 all collection sites established under this Section.

12           (4) Not include any fees or other charges to persons  
13 participating in the program, except that each thermostat  
14 wholesaler, qualified contractor, unit of local  
15 government, or thermostat retailer that is provided with  
16 one or more collection containers may be charged a one-time  
17 program administration fee not to exceed \$75 per collection  
18 container.

19           (5) From January 1, 2011, through December 31, 2013,  
20 conduct education and outreach efforts, including, but not  
21 limited to the following:

22                   (A) create a public service announcement promoting  
23 collection and proper management of out-of-service  
24 mercury thermostats, copies of which shall be provided  
25 to the Agency;

26                   (B) establish and maintain a publicly accessible

1 website for the dissemination of educational materials  
2 to promote the collection of out-of-service mercury  
3 thermostats. This website shall include templates of  
4 the educational materials on the Internet website in a  
5 form and format that can be easily downloaded and  
6 printed. The link to this website shall be provided to  
7 the Agency;

8 (C) contact thermostat wholesalers at least once a  
9 year to encourage their support and participation in  
10 educating their customers on the importance of and  
11 statutory requirements for the collection and proper  
12 management of out-of-service mercury thermostats;

13 (D) develop and implement strategies to encourage  
14 participating thermostat retailers to educate their  
15 customers on the importance of and opportunities for  
16 collecting and recycling out-of-service mercury  
17 thermostats;

18 (E) create and maintain a web-based program that  
19 allows contractors and consumers to identify  
20 collection sites for out-of-service mercury  
21 thermostats by zip code in the State;

22 (F) prepare and mail to contractor associations a  
23 postcard or other notice that provides information on  
24 the collection program for out-of-service mercury  
25 thermostats; and

26 (G) develop informational articles, press

1 releases, and news stories pertaining to the  
2 importance of and opportunities for collecting and  
3 recycling out-of-service mercury thermostats and  
4 distribute those materials to trade publications,  
5 local media, and stakeholder groups.

6 (6) On or before January 1, 2011, develop and update as  
7 necessary educational and other outreach materials for  
8 distribution to contractors, contractor associations, and  
9 consumers. Those materials shall be made available for use  
10 by participating thermostat wholesalers, thermostat  
11 retailers, contractors, and units of local government. The  
12 materials shall include, but not be limited to, the  
13 following:

14 (A) signage, such as posters and cling signage,  
15 that can be prominently displayed to promote the  
16 collection of out-of-service mercury thermostats to  
17 contractors and consumers; and

18 (B) written materials or templates of materials  
19 for reproduction by thermostat wholesalers and  
20 thermostat retailers to be provided to customers at the  
21 time of purchase or delivery of a thermostat. The  
22 materials shall include, but not be limited to,  
23 information on the importance of properly managing  
24 out-of-service mercury thermostats and opportunities  
25 for the collection of those thermostats.

26 (7) Provide an opportunity for the Agency and other

1 interested stakeholders to offer feedback and suggestions  
2 on the collection program.

3 (c) If the collection programs do not collectively achieve  
4 the collection goals provided for in Section 25 of this Act for  
5 calendar year 2013, 2015 or 2017, thermostat manufacturers  
6 shall, individually or collectively, submit to the Agency for  
7 review and approval proposed revisions to the collection  
8 programs that are designed to achieve the goals in subsequent  
9 calendar years. The proposed revisions shall be submitted to  
10 the Agency with the annual report required in Section 20 of  
11 this Act.

12 (d) Within 90 days after receipt of the proposed collection  
13 program revisions required under subsection (c) of this  
14 Section, the Agency shall review and (i) approve, (ii)  
15 disapprove, or (iii) approve with modifications the proposed  
16 collection program revisions.

17 (1) The Agency shall approve proposed revisions if the  
18 Agency determines that the revised collection programs  
19 will collectively achieve the collection goals set forth in  
20 Section 25 of this Act.

21 (2) If the Agency determines the revised collection  
22 programs will not collectively achieve the collection  
23 goals set forth in Section 25 of this Act, the Agency may  
24 require modifications to one or more collection programs  
25 that the Agency determines are necessary to achieve the  
26 collection goals. Modifications required by the Agency may



1 include improvements to outreach and education conducted  
2 under the collection program, expansion of the number and  
3 location of collection sites established under the  
4 program, modification of the roles of participants, and a  
5 \$5 financial incentive in the form of either cash or a  
6 coupon offered by the manufacturer to contractors and  
7 consumers for each out of service mercury thermostat  
8 returned to a collection site.

9 (3) Prior to issuing any decision under this subsection  
10 (d) the Agency shall consult with thermostat manufacturers  
11 and other interested groups.

12 (4) Thermostat manufacturers shall begin the process  
13 to implement collection program revisions approved by the  
14 Agency, with or without modifications, within 90 days after  
15 approval.

16 (5) If the program revisions are disapproved, the  
17 Agency shall notify the thermostat manufacturers in  
18 writing as to the reasons for the disapproval. The  
19 thermostat manufacturers shall have 35 days to submit a new  
20 collection program revision.

21 (6) Any action by the Agency to disapprove or modify  
22 proposed collection program revisions under this  
23 subsection (d) shall be subject to appeal to the Board in  
24 the same manner as provided for a permit decision under  
25 Section 40 of the Environmental Protection Act.

1 Section 20. Reporting on collection efforts.

2 (a) No later than September 1, 2011, and no later than  
3 September 1 of each year thereafter, each thermostat  
4 manufacturer shall, individually or collectively with other  
5 thermostat manufacturers, submit a mid-term report on its  
6 collection program to the Agency covering the six month period  
7 beginning on January 1st of the year in which the report is  
8 due. The mid-term report shall identify the number of  
9 out-of-service mercury thermostats collected under the program  
10 and a listing of all collection sites in the State.

11 (b) No later than April 1, 2012, and no later than April 1  
12 of each year thereafter, each thermostat manufacturer shall,  
13 individually or collectively with other thermostat  
14 manufacturers, submit an annual report on its collection  
15 program to the Agency covering the one-year period ending  
16 December 31st of the previous year. Each report shall be posted  
17 on the manufacturer's or program operator's respective  
18 internet website. The annual report shall include, but not be  
19 limited to, the following:

20 (1) the number of out-of-service mercury thermostats  
21 collected and managed under this Act during the previous  
22 calendar year;

23 (2) the estimated total amount of mercury contained in  
24 the out-of-service mercury thermostats collected under  
25 this Act during the previous calendar year;

26 (3) an evaluation of the effectiveness of the

1 collection program;

2 (4) a list of all thermostat wholesalers, contractors,  
3 units of local government, and thermostat retailers  
4 participating in the program as mercury thermostat  
5 collection sites and the number of out-of-service mercury  
6 thermostats returned by each;

7 (5) an accounting of the program's administrative  
8 costs;

9 (6) a description of outreach strategies employed  
10 under item (5) of subsection (b) of Section 15 of this Act;

11 (7) examples of outreach and educational materials  
12 used under item (6) of subsection (b) of Section 15 of this  
13 Act;

14 (8) the Internet website address or addresses where the  
15 annual report may be viewed online;

16 (9) a description of how the out-of-service mercury  
17 thermostats were managed;

18 (10) any modifications that the thermostat  
19 manufacturer has made or is planning to make in its  
20 collection program; and

21 (11) the identification of a collection program  
22 contact and the business phone number, mailing address, and  
23 e-mail address for the contact.

24 Section 25. Collection goals. The collection programs  
25 established by thermostat manufacturers under this Act shall be

1 designed to collectively achieve the following statewide  
2 goals:

3 (a) For calendar year 2011, the collection of least 5,000  
4 mercury thermostats taken out-of-service in the State during  
5 the calendar year.

6 (b) For calendar years 2012, 2013, and 2014, the collection  
7 of at least 15,000 mercury thermostats taken out-of-service in  
8 the State during each calendar year.

9 (c) For calendar years 2015 through 2020, the collection  
10 goals shall be established by the Agency. The Agency shall  
11 establish collection goals no later than November 1, 2014. The  
12 collection goals established by the Agency shall maximize the  
13 annual collection of out-of-service mercury thermostats in the  
14 State. In developing the collection goals, the Agency shall  
15 take into account, at a minimum, (i) the effectiveness of  
16 collection programs for out-of-service mercury thermostats in  
17 the State and other states, including education and outreach  
18 efforts, (ii) collection requirements in other states, (iii)  
19 any reports or studies on the number of out-of-service mercury  
20 thermostats that are available for collection in this State,  
21 other states, and nationally, and (iv) other factors. Prior to  
22 establishing the collection goals, the Agency shall consult  
23 with stakeholder groups that include, at a minimum,  
24 representatives of thermostat manufacturers, environmental  
25 groups, thermostat wholesalers, contractors and thermostat  
26 retailers. Any action by the Agency under this subsection (c)

1 shall be subject to appeal to the Board in the same manner as  
2 provided for a permit decision under Section 40 of the  
3 Environmental Protection Act. Pending the appeal provided  
4 here, the goals set by the Agency under this subsection (c)  
5 shall remain in effect during the appeal.

6 Section 30. Management of out-of-service mercury  
7 thermostats. All contractors, thermostat wholesalers,  
8 thermostat manufacturers, and thermostat retailers  
9 participating in the program shall handle and manage the  
10 out-of-service mercury thermostats in a manner that is  
11 consistent with the provisions of the universal waste  
12 regulations adopted by the Board.

13 Section 35. Thermostat wholesaler and contractor  
14 responsibilities.

15 (a) On and after July 1, 2011, no thermostat wholesaler  
16 shall sell, offer to sell, distribute, or offer to distribute  
17 thermostats unless the wholesaler:

18 (1) participates as a collection site for  
19 out-of-service mercury thermostats;

20 (2) uses the containers provided by the collection  
21 program to facilitate collection of out-of-service mercury  
22 thermostats by contractors;

23 (3) complies with the requirements of the collection  
24 program related to the acceptance of out-of-service

1 mercury thermostats; and

2 (4) distributes to its customers the educational  
3 outreach materials developed under item (6) of subsection  
4 (b) of Section 15.

5 (b) On or after July 1, 2011, no contractor or person shall  
6 remove, replace, or otherwise take out of service a mercury  
7 thermostat unless the contractor or person delivers it to a  
8 collection site established under this Act.

9 Section 40. Agency responsibilities.

10 (a) No later than June 1, 2011, the Agency shall maintain  
11 on its website information regarding the collection and proper  
12 management of out-of-service mercury thermostats in the State.  
13 The information shall include, but is not limited to, the  
14 following:

15 (1) a description of the collection programs  
16 established under this Act;

17 (2) a report on the progress towards achieving the  
18 statewide collection goals set forth in Section 25 of this  
19 Act; and

20 (3) a list of all thermostat wholesalers, contractors,  
21 unit of local government household hazardous waste  
22 collection facilities, and thermostat retailers  
23 participating in the program as collection sites.

24 (b) No later than November 1, 2019, the Agency shall submit  
25 a written report to the Governor and General Assembly regarding

1 the effectiveness of the collection programs established under  
2 this Act, information on the number of out-of-service  
3 thermostats collected, how the out-of-service thermostats were  
4 managed, and an estimate of the number of thermostats that are  
5 available for collection. The Agency shall use this information  
6 to recommend whether the sunset date specified in Section 55  
7 for this Act should be extended, along with any other statutory  
8 changes. In preparing the report, the Agency shall consult with  
9 mercury thermostat manufacturers, environmental organizations,  
10 and other interest groups.

11 (c) In conjunction with the educational and outreach  
12 programs implemented by the thermostat manufacturers under  
13 this Act, the Agency shall conduct outreach to promote the  
14 collection and proper management of out-of-service mercury  
15 thermostats.

16 Section 45. Penalties.

17 (a) Any thermostat manufacturer that violates any  
18 provision of this Act or any rule adopted by the Agency  
19 pursuant to this Act, or that fails to perform any duty imposed  
20 by this Act shall be liable for a civil penalty not to exceed  
21 \$2,500 per day for each violation. Each violation of this Act  
22 shall constitute a separate offense and violation.

23 (b) Any person, thermostat wholesaler, or contractor that  
24 violates any provision of this Act, or any rule adopted by the  
25 Agency pursuant to this Act, or that fails to perform any duty

1 imposed by this Act shall be liable for a civil penalty not to  
2 exceed \$500 per day for each violation. Each violation of this  
3 Act shall constitute a separate offense and violation.

4 (c) The penalties provided for in this Section may be  
5 recovered in a civil action brought in the name of the people  
6 of the State of Illinois by the State's Attorney of the county  
7 in which the violation occurred or by the Attorney General. Any  
8 funds collected under this Section in an action in which the  
9 Attorney General has prevailed shall be deposited in the  
10 Environmental Protection Trust Fund, to be used in accordance  
11 with the provisions of the Environmental Trust Fund Act.

12 (d) There shall be no penalty under this Section for a  
13 thermostat manufacturer's failure to achieve the statewide  
14 collection goals set forth in Section 25 of this Act.

15 Section 50. Disposal prohibition.

16 (a) Beginning January 1, 2011, no person may knowingly  
17 cause or allow the mixing of an out-of-service mercury  
18 thermostat with any other municipal waste that is intended for  
19 disposal at a sanitary landfill.

20 (b) Beginning January 1, 2011, no person may knowingly  
21 cause or allow the disposal of an out-of-service mercury  
22 thermostat in a sanitary landfill.

23 Section 55. Repealer. This Act is repealed on January 1,  
24 2021.



1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".