



Sen. Heather Steans

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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
4 qualified local government authorities in this State that
5 request a container. Each thermostat manufacturer shall
6 with each container include information regarding the
7 proper management of out-of-service mercury thermostats as
8 universal waste in accordance with the collection program
9 and Board's rules.

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

13 (4) Not include any fees or other charges to persons
14 participating in the program, except that each thermostat
15 wholesaler, qualified contractor, qualified local
16 government authority, or thermostat retailer that is
17 provided with one or more collection containers may be
18 charged a one-time program administration fee not to exceed
19 \$75 per collection container.

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

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

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

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

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

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

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

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

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

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

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

1 (7) Provide an opportunity for the Agency and other
2 interested stakeholders to offer feedback and suggestions
3 on the collection program.

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

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

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

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

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

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

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

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

22 (6) Any action by the Agency to disapprove or modify
23 proposed collection program revisions under this
24 subsection (d) shall be subject to appeal to the Board in
25 the same manner as provided for a permit decision under
26 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;

1 (3) an evaluation of the effectiveness of the
2 collection program;

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

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

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

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

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

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

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

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

25 Section 25. Collection goals. The collection programs

1 established by thermostat manufacturers under this Act shall be
2 designed to collectively achieve the following statewide
3 goals:

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

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

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

1 retailers.

2 (d) The collection goals established by the Agency under
3 subsection (c) of this Section are statements of general
4 applicability under Section 1-70 of the Administrative
5 Procedures Act and shall be adopted in accordance with the
6 procedures of that Act. Any person adversely affected by a goal
7 established by the Agency under subsection (c) of this Section
8 may obtain a determination of the validity or application of
9 the goal by filing a petition for review within 35 days after
10 the date the adopted goal is published in the Illinois Register
11 pursuant to subsection (d) of Section 40 of the Administrative
12 Procedures Act. Review shall be afforded directly in the
13 Appellate Court for the District in which the cause of action
14 arose and not the Circuit Court. During the pendency of the
15 review, the goal under review shall remain in effect.

16 Section 30. Management of out-of-service mercury
17 thermostats. All contractors, thermostat wholesalers,
18 thermostat manufacturers, and thermostat retailers
19 participating in the program shall handle and manage the
20 out-of-service mercury thermostats in a manner that is
21 consistent with the provisions of the universal waste
22 regulations adopted by the Board.

23 Section 35. Thermostat wholesaler and contractor
24 responsibilities.

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

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

6 (2) uses the containers provided by the collection
7 program to facilitate collection of out-of-service mercury
8 thermostats by contractors;

9 (3) complies with the requirements of the collection
10 program related to the acceptance of out-of-service
11 mercury thermostats; and

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

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

19 Section 40. Agency responsibilities.

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

25 (1) a description of the collection programs

1 established under this Act;

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

5 (3) a list of all thermostat wholesalers, contractors,
6 qualified local government authorities, and thermostat
7 retailers participating in the program as collection
8 sites.

9 (b) No later than November 1, 2019, the Agency shall submit
10 a written report to the Governor and General Assembly regarding
11 the effectiveness of the collection programs established under
12 this Act, information on the number of out-of-service
13 thermostats collected, how the out-of-service thermostats were
14 managed, and an estimate of the number of thermostats that are
15 available for collection. The Agency shall use this information
16 to recommend whether the sunset date specified in Section 55
17 for this Act should be extended, along with any other statutory
18 changes. In preparing the report, the Agency shall consult with
19 mercury thermostat manufacturers, environmental organizations,
20 and other interest groups.

21 (c) In conjunction with the educational and outreach
22 programs implemented by the thermostat manufacturers under
23 this Act, the Agency shall conduct outreach to promote the
24 collection and proper management of out-of-service mercury
25 thermostats.

1 Section 45. Penalties.

2 (a) Any thermostat manufacturer that violates any
3 provision of this Act or any rule adopted by the Agency
4 pursuant to this Act, or that fails to perform any duty imposed
5 by this Act shall be liable for a civil penalty not to exceed
6 \$2,500 per day for each violation. Each violation of this Act
7 shall constitute a separate offense and violation.

8 (b) Any thermostat wholesaler, contractor, or other person
9 that violates any provision of this Act, or any rule adopted by
10 the Agency pursuant to this Act, or that fails to perform any
11 duty imposed by this Act shall be liable for a civil penalty
12 not to exceed \$500 per day for each violation. Each violation
13 of this Act shall constitute a separate offense and violation.

14 (c) The penalties provided for in this Section may be
15 recovered in a civil action brought in the name of the people
16 of the State of Illinois by the State's Attorney of the county
17 in which the violation occurred or by the Attorney General. Any
18 funds collected under this Section in an action in which the
19 Attorney General has prevailed shall be deposited in the
20 Environmental Protection Trust Fund, to be used in accordance
21 with the provisions of the Environmental Trust Fund Act.

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

25 Section 50. Disposal prohibition.

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

5 (b) Beginning July 1, 2011, no person may knowingly cause
6 or allow the disposal of an out-of-service mercury thermostat
7 in a sanitary landfill.

8 Section 55. Repealer. This Act is repealed on January 1,
9 2021.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.".