

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 Sections 3.284 and 22.23b as follows:

6 (415 ILCS 5/3.284)

7 Sec. 3.284. Mercury switch. "Mercury switch" means a  
8 product or device, containing mercury added during its  
9 manufacture, that opens or closes an electrical circuit or gas  
10 valve, or makes, breaks, or changes the connection in an  
11 electrical circuit, including, but not limited to, mercury  
12 float switches actuated by rising or falling liquid levels,  
13 mercury tilt switches actuated by a change in the switch  
14 position, mercury pressure switches actuated by a change in  
15 pressure, mercury temperature switches actuated by a change in  
16 temperature, and mercury flame sensors.

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

18 (415 ILCS 5/22.23b)

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

20 (a) Beginning July 1, 2005, no person shall purchase or  
21 accept, for use in a primary or secondary school classroom,  
22 bulk elemental mercury, chemicals containing mercury

1 compounds, or instructional equipment or materials containing  
2 mercury added during their manufacture. This subsection (a)  
3 does not apply to: (i) other products containing mercury added  
4 during their manufacture that are used in schools and (ii)  
5 measuring devices used as teaching aids, including, but not  
6 limited to, barometers, manometers, and thermometers, if no  
7 adequate mercury-free substitute exists.

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

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

19 (2) Mercury switches and mercury relays used at  
20 electric generating facilities.

21 (3) Mercury switches in thermostats used to sense and  
22 control room temperature.

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

25 (5) A mercury switch or mercury relay used to replace a  
26 mercury switch or mercury relay that is a component in a

1 larger product in use before ~~prior to~~ July 1, 2007, and one  
2 of the following applies:

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

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

7 (c) The manufacturer of a mercury switch or mercury relay,  
8 or a scientific instrument or piece of instructional equipment  
9 containing mercury added during its manufacture, may apply to  
10 the Agency for an exemption from the provisions of subsection  
11 (a) or (b) of this Section for one or more specific uses of the  
12 switch, relay, instrument, or piece of equipment by filing a  
13 written petition with the Agency. The Agency may grant an  
14 exemption, with or without conditions, if the manufacturer  
15 demonstrates the following:

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

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

24 Before approving any exemption under this subsection (c)  
25 the Agency must consult with other states to promote  
26 consistency in the regulation of products containing mercury

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

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

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

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

20 (2) Recommendations for altering the programs to make  
21 them more effective.

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

25 (e) Mercury switches and mercury relays, and scientific  
26 instruments and instructional equipment containing mercury

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

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

21 (f) Beginning July 1, 2008, no person shall install, sell,  
22 offer to sell, distribute, or offer to distribute a mercury  
23 thermostat in this State. For purposes of this subsection (f),  
24 "mercury thermostat" means a product or device that uses a  
25 mercury switch to sense and control room temperature through  
26 communication with heating, ventilating, or air conditioning

1 equipment. "Mercury thermostat" includes thermostats used to  
2 sense and control room temperature in residential, commercial,  
3 industrial, and other buildings, but does not include  
4 thermostats used to sense and control temperature as a part of  
5 a manufacturing or industrial process.

6 (Source: P.A. 95-452, eff. 8-27-07.)

7 Section 10. The Mercury Switch Removal Act is amended by  
8 changing Section 15 as follows:

9 (415 ILCS 97/15)

10 (Section scheduled to be repealed on January 1, 2017)

11 Sec. 15. Mercury switch collection programs.

12 (a) Within 60 days of the effective date of this Act,  
13 manufacturers of vehicles in Illinois that contain mercury  
14 switches must begin to implement a mercury switch collection  
15 program that facilitates the removal of mercury switches from  
16 end-of-life vehicles before ~~prior to~~ the vehicles are ~~being~~  
17 flattened, crushed, shredded, or otherwise processed for  
18 recycling and to collect and properly manage mercury switches  
19 in accordance with the Environmental Protection Act and  
20 regulations adopted thereunder. In order to ensure that the  
21 mercury switches are removed and collected in a safe and  
22 consistent manner, manufacturers must, to the extent  
23 practicable, use the currently available end-of-life vehicle  
24 recycling infrastructure. The collection program must be

1 designed to achieve capture rates of not less than (i) 35% for  
2 the period of July 1, 2006, through June 30, 2007; (ii) 50% for  
3 the period of July 1, 2007, through June 30, 2008; and (iii)  
4 70% for the period of July 1, 2008, through June 30, 2009 and  
5 for each subsequent period of July 1 through June 30. At a  
6 minimum, the collection program must:

7 (1) Develop and provide educational materials that  
8 include guidance as to which vehicles may contain mercury  
9 switches and procedures for locating and removing mercury  
10 switches. The materials may include, but are not limited  
11 to, brochures, fact sheets, and videos.

12 (2) Conduct outreach activities to encourage vehicle  
13 recyclers and vehicle crushers to participate in the  
14 mercury switch collection program. The activities may  
15 include, but are not limited to, direct mailings,  
16 workshops, and site visits.

17 (3) Provide storage containers to participating  
18 vehicle recyclers and vehicle crushers for mercury  
19 switches removed under the program.

20 (4) Provide a collection and transportation system to  
21 periodically collect and replace filled storage containers  
22 from vehicle recyclers, vehicle crushers, and scrap metal  
23 recyclers, either upon notification that a storage  
24 container is full or on a schedule predetermined by the  
25 manufacturers.

26 (5) Establish an entity that will serve as a point of

1 contact for the collection program and that will establish,  
2 implement, and oversee the collection program on behalf of  
3 the manufacturers.

4 (6) Track participation in the collection program and  
5 the progress of mercury switch removals and collections.

6 (b) Within 90 days of the effective date of this Act,  
7 manufacturers of vehicles in Illinois that contain mercury  
8 switches must submit to the Agency an implementation plan that  
9 describes how the collection program under subsection (a) of  
10 this Section will be carried out for the duration of the  
11 program and how the program will achieve the capture rates set  
12 forth in subsection (a) of this Section. At a minimum, the  
13 implementation plan must:

14 (A) Identify the educational materials that will  
15 assist vehicle recyclers, vehicle crushers, and scrap  
16 metal processors in identifying, removing, and properly  
17 managing mercury switches removed from end-of-life  
18 vehicles.

19 (B) Describe the outreach program that will be  
20 undertaken to encourage vehicle recyclers and vehicle  
21 crushers to participate in the mercury switch collection  
22 program.

23 (C) Describe how the manufacturers will ensure that  
24 mercury switches removed from end-of-life vehicles are  
25 managed in accordance with the Illinois Environmental  
26 Protection Act and regulations adopted thereunder.



1           (D) Describe how the manufacturers will collect and  
2 document the information required in the quarterly reports  
3 submitted pursuant to subsection (e) of this Section.

4           (E) Describe how the collection program will be  
5 financed and implemented.

6           (F) Identify the manufacturer's address to which the  
7 Agency should send the notice required under subsection (f)  
8 of this Section.

9           The Agency shall review the collection program plans it  
10 receives for completeness and shall notify the manufacturer in  
11 writing if a plan is incomplete. Within 30 days after receiving  
12 a notification of incompleteness from the Agency the  
13 manufacturer shall submit to the Agency a plan that contains  
14 all of the required information.

15           (c) The Agency must provide assistance to manufacturers in  
16 their implementation of the collection program required under  
17 this Section. The assistance shall include providing  
18 manufacturers with information about businesses likely to be  
19 engaged in vehicle recycling or vehicle crushing, conducting  
20 site visits to promote participation in the collection program,  
21 and assisting with the scheduling, locating, and staffing of  
22 workshops conducted to encourage vehicle recyclers and vehicle  
23 crushers to participate in the collection program.

24           (d) Manufacturers subject to the collection program  
25 requirements of this Section shall provide, to the extent  
26 practicable, the opportunity for trade associations of vehicle

1 recyclers, vehicle crushers, and scrap metal recyclers to be  
2 involved in the delivery and dissemination of educational  
3 materials regarding the identification, removal, collection,  
4 and proper management of mercury switches in end-of-life  
5 vehicles.

6 (e) (Blank). ~~For the calendar quarter ending March 31,~~  
7 ~~2007, and for each calendar quarter thereafter, not later than~~  
8 ~~45 days following the close of the calendar quarter~~  
9 ~~manufacturers subject to the collection program requirements~~  
10 ~~of this Section must submit to the Agency a quarterly report~~  
11 ~~that contains the following information: (i) the number of~~  
12 ~~vehicle recyclers, vehicle crushers, and scrap metal recyclers~~  
13 ~~participating in the manufacturer's collection program during~~  
14 ~~the reported quarter, (ii) the number of mercury switches~~  
15 ~~removed from end-of-life vehicles during the reported quarter~~  
16 ~~by the vehicle recyclers, vehicle crushers, and scrap metal~~  
17 ~~recyclers participating in the program, and (iii) the amount of~~  
18 ~~mercury collected and recycled through the manufacturer's~~  
19 ~~collection program during the reported calendar quarter.~~

20 (f) If the reports required under this Act indicate that  
21 the capture rates set forth in subsection (a) of this Section  
22 for the period of July 1, 2007, through June 30, 2008, or for  
23 any subsequent period have not been met the Agency shall  
24 provide notice that the capture rate was not met; provided,  
25 however, that the Agency is not required to provide notice if  
26 it determines that the capture rate was not met due to a force

1 majeure. The Agency shall provide the notice by posting a  
2 statement on its website and by sending a written notice via  
3 certified mail to the manufacturers subject to the collection  
4 program requirement of this Section at the addresses provided  
5 in the manufacturers' collection plans. Once the Agency  
6 provides notice pursuant to this subsection (f) it is not  
7 required to provide notice in subsequent periods in which the  
8 capture rate is not met.

9 (g) Beginning 30 days after the Agency first provides  
10 notice pursuant to subsection (f) of this Section, the  
11 following shall apply:

12 (1) Vehicle recyclers must remove all mercury switches  
13 from each end-of-life vehicle before ~~vehicles prior to~~  
14 delivering the vehicle ~~vehicles~~ to an on-site or off-site  
15 vehicle crusher or to a scrap metal recycler, provided that  
16 a vehicle recycler is not required to remove a mercury  
17 switch that is inaccessible due to significant damage to  
18 the vehicle in the area surrounding the mercury switch that  
19 occurred before ~~prior to~~ the vehicle recycler's receipt of  
20 the vehicle in which case the damage must be noted in the  
21 records the vehicle recycler is required to maintain under  
22 subsection (c) of Section 10 ~~Section 10(e)~~ of this Act.

23 (2) No vehicle recycler, vehicle crusher, or scrap  
24 metal recycler shall flatten, crush, or otherwise process  
25 an end-of-life vehicle for recycling unless all mercury  
26 switches have been removed from the vehicle, provided that

1 a mercury switch that is inaccessible due to significant  
2 damage to the vehicle in the area surrounding the mercury  
3 switch that occurred before ~~prior to~~ the vehicle  
4 recycler's, ~~or the~~ vehicle crusher's, or scrap metal  
5 recycler's receipt of the vehicle is not required to be  
6 removed. The damage must be noted in the records the  
7 vehicle recycler or vehicle crusher is required to maintain  
8 under subsection (c) of Section 10 ~~Section 10(e)~~ of this  
9 Act.

10 (3) Notwithstanding paragraphs (1) through (2) of this  
11 subsection (g) ~~subsection (g)(1) of this Section~~, a scrap  
12 metal recycler may agree to accept an end-of-life vehicle  
13 that contains one or more mercury switches and that has not  
14 been flattened, crushed, shredded, or otherwise processed  
15 for recycling provided the scrap metal recycler removes all  
16 mercury switches from the vehicle before the vehicle is  
17 flattened, crushed, shredded, or otherwise processed for  
18 recycling. Scrap metal recyclers are not required to remove  
19 a mercury switch that is inaccessible due to significant  
20 damage to the vehicle in the area surrounding the mercury  
21 switch that occurred before ~~prior to~~ the scrap metal  
22 recycler's receipt of the vehicle. The damage must be noted  
23 in the records the scrap metal recycler is required to  
24 maintain under subsection (c) of Section 10 ~~Section 10(e)~~  
25 of this Act.

26 (4) Manufacturers subject to the collection program

1 requirements of this Section must provide to vehicle  
2 recyclers, vehicle crushers, and scrap metal recyclers the  
3 following compensation for all mercury switches removed  
4 from end-of-life vehicles on or after the date of the  
5 notice: \$2.00 for each mercury switch removed by the  
6 vehicle recycler, vehicle crusher, or the scrap metal  
7 recycler, the costs of the containers in which the mercury  
8 switches are collected, and the costs of packaging and  
9 transporting the mercury switches off-site. Payment of  
10 this compensation must be provided in a prompt manner.

11 (h) In meeting the requirements of this Section  
12 manufacturers may work individually or as part of a group of 2  
13 or more manufacturers.

14 (Source: P.A. 94-732, eff. 4-24-06.)

15 Section 15. The Mercury-added Product Prohibition Act is  
16 amended by changing Section 27 as follows:

17 (410 ILCS 46/27)

18 Sec. 27. Sale and distribution of certain mercury-added  
19 products prohibited.

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

23 (1) barometers;

24 (2) esophageal dilators, bougie tubes, or

- 1           gastrointestinal tubes;
- 2           (3) flow meters;
- 3           (4) hydrometers;
- 4           (5) hygrometers;
- 5           (6) manometers;
- 6           (7) pyrometers;
- 7           (8) sphygmomanometers;
- 8           (9) thermometers; ~~or~~
- 9           (10) psychrometers; ~~or~~
- 10          (11) pressure transducers;
- 11          (12) rings;
- 12          (13) seals; or
- 13          (14) sensors.

14           (b) This Section does not apply to the sale of a  
15 mercury-added product listed in paragraphs (1) through (14)  
16 ~~(10)~~ of subsection (a) if use of the product is a federal  
17 requirement or if the only mercury-added component in the  
18 product is a button cell battery.

19           (c) This Section does not apply to the sale of a  
20 mercury-added product listed in paragraphs (1) through (14)  
21 ~~(10)~~ of subsection (a) for which an exemption is obtained under  
22 this subsection (c). The manufacturer of the product may apply  
23 for an exemption for one or more uses of the product by filing  
24 a written petition with the Agency. The Agency may grant an  
25 exemption, with or without conditions, if the manufacturer  
26 demonstrates the following:

1           (1) a system exists for the proper collection,  
2           transportation, and processing of the product at the end of  
3           its useful life; and

4           (2) one of the following applies:

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

8                 (ii) technically feasible nonmercury alternatives  
9                 are not available at comparable cost.

10           Before ~~Prior to~~ approving an exemption, the Agency may  
11           consult with other states to promote consistency in the  
12           regulation of the product for which the exemption is requested.  
13           The Agency may also publish notice of its receipt of petitions  
14           for exemptions on its website and consider public comments  
15           submitted in response to the petitions. Exemptions shall be  
16           granted for a term of 5 years and may be renewed for additional  
17           5-year terms upon written application by the manufacturer if  
18           the manufacturer demonstrates that the criteria of this  
19           subsection (c) and the conditions of the product's original  
20           exemption approval continue to be met. All petitions for  
21           exemptions and exemption renewals shall be submitted on forms  
22           prescribed by the Agency.

23           (Source: P.A. 95-87, eff. 8-13-07.)

24           Section 99. Effective date. This Act takes effect on July  
25           1, 2012.