

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.