



Sen. Heather A. Steans

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LRB099 07573 MGM 32335 a

1 AMENDMENT TO SENATE BILL 679

2 AMENDMENT NO. _____. Amend Senate Bill 679 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Mercury Thermostat Collection Act is
5 amended by changing Sections 5, 10, 15, 20, 25, 30, and 40 as
6 follows:

7 (415 ILCS 98/5)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 5. Legislative findings. The General Assembly finds
10 that:

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

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

16 (3) millions of mercury-containing thermostats are still

1 in use in homes and businesses in the United States;

2 (4) mercury in those thermostats poses a risk to human
3 health and the environment if those thermostats are not
4 properly managed at the end of their useful life;

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

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

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

13 (8) it is in the public interest to achieve a significant
14 increase in the collection and proper management of mercury
15 thermostats taken out of service in the State; -

16 (9) the manufacturers' program collects whole, intact
17 mercury thermostats and warns against including loose mercury
18 ampoules in collection bins, but participants frequently
19 include loose mercury ampoules in collection bins.

20 (Source: P.A. 96-1295, eff. 7-26-10.)

21 (415 ILCS 98/10)

22 (Section scheduled to be repealed on January 1, 2021)

23 Sec. 10. Definitions.

24 "Agency" means the Illinois Environmental Protection
25 Agency.

1 "Board" means the Illinois Pollution Control Board.

2 "Collection program" means a system for the collection,
3 transportation, recycling, and disposal of out-of-service
4 mercury thermostats that is financed and managed or provided by
5 a thermostat manufacturer individually or collectively with
6 other thermostat manufacturers in accordance with this Act.

7 "Contractor" means a person engaged in the business of
8 installation, service, or removal of heating, ventilation, and
9 air-conditioning components.

10 "Loose mercury ampoule" means an enclosed glass vessel that
11 contains liquid mercury and has been removed intact from a
12 mercury thermostat.

13 "Mercury thermostat" means a thermostat that meets the
14 definition of a "mercury thermostat" under subsection (f) of
15 Section 22.23b of the Environmental Protection Act.

16 "Out-of-service mercury thermostat" means a mercury
17 thermostat that is removed, replaced, or otherwise taken out of
18 service.

19 "Person" means any individual, partnership,
20 co-partnership, firm, company, limited liability company,
21 corporation, association, joint stock company, trust, estate,
22 political subdivision, State agency, or any other legal entity,
23 or its legal representatives, agents, or assigns.

24 "Qualified contractor" means a person engaged in the
25 business of installation, service, or removal of heating,
26 ventilation, and air-conditioning components who employs 7 or

1 more service technicians or installers or who is located in an
2 area outside of an urban area, as defined by the United States
3 Bureau of the Census.

4 "Qualified local government authorities" means household
5 hazardous waste facilities, solid waste management agencies,
6 environmental management agencies, or departments of public
7 health.

8 "Thermostat manufacturer" means a person who owns or owned
9 a name brand of one or more mercury thermostats sold in the
10 State.

11 "Thermostat retailer" means a person who sells thermostats
12 of any kind primarily to homeowners or other nonprofessionals
13 through any sale or distribution mechanism, including, but not
14 limited to, sales using the Internet or catalogs. A thermostat
15 retailer that meets the definition of thermostat wholesaler
16 shall be considered a thermostat wholesaler.

17 "Thermostat wholesaler" means a person who is engaged in
18 the distribution and wholesale selling of heating,
19 ventilation, and air-conditioning components, including, but
20 not limited to, thermostats, to contractors, and whose total
21 wholesale sales account for 80% or more of its total sales. A
22 thermostat manufacturer, as defined in this Section, is not a
23 thermostat wholesaler.

24 (Source: P.A. 96-1295, eff. 7-26-10.)

1 (Section scheduled to be repealed on January 1, 2021)

2 Sec. 15. Mercury thermostat collection programs.

3 (a) Each thermostat manufacturer shall, individually or
4 collectively with other thermostat manufacturers, establish
5 and maintain a collection program for the collection,
6 transportation, and proper management of out-of-service
7 mercury thermostats and loose mercury ampoules in accordance
8 with the provisions of this Act.

9 (b) Each thermostat manufacturer shall, individually or
10 collectively with other thermostat manufacturers through a
11 collection program, do the following:

12 (1) Compile ~~On and after January 1, 2011, compile~~ a
13 list of thermostat wholesalers in the State and offer each
14 thermostat wholesaler containers for the collection of
15 out-of-service mercury thermostats.

16 (2) Make ~~On and after January 1, 2011, make~~ collection
17 containers available to all qualified contractors,
18 thermostat wholesalers, thermostat retailers, and
19 qualified local government authorities in this State that
20 request a container. Each thermostat manufacturer shall
21 with each container include information regarding the
22 proper management of out-of-service mercury thermostats
23 and loose mercury ampoules as universal waste in accordance
24 with the collection program and Board's rules.

25 (3) Establish a system to collect, transport, and
26 properly manage out-of-service mercury thermostats and

1 loose mercury ampoules from all collection sites
2 established under this Section.

3 (4) Not include any fees or other charges to persons
4 participating in the program, except that each thermostat
5 wholesaler, qualified contractor, qualified local
6 government authority, or thermostat retailer that is
7 provided with one or more collection containers may be
8 charged a one-time program administration fee not to exceed
9 \$75 per collection container.

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

13 (A) create a public service announcement promoting
14 collection and proper management of out-of-service
15 mercury thermostats, copies of which shall be provided
16 to the Agency;

17 (B) establish and maintain a publicly accessible
18 website for the dissemination of educational materials
19 to promote the collection of out-of-service mercury
20 thermostats. This website shall include templates of
21 the educational materials on the Internet website in a
22 form and format that can be easily downloaded and
23 printed. The link to this website shall be provided to
24 the Agency;

25 (C) contact thermostat wholesalers at least once a
26 year to encourage their support and participation in

1 educating their customers on the importance of and
2 statutory requirements for the collection and proper
3 management of out-of-service mercury thermostats;

4 (D) develop and implement strategies to encourage
5 participating thermostat retailers to educate their
6 customers on the importance of and opportunities for
7 collecting and recycling out-of-service mercury
8 thermostats;

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

13 (F) prepare and mail to contractor associations a
14 postcard or other notice that provides information on
15 the collection program for out-of-service mercury
16 thermostats; and

17 (G) develop informational articles, press
18 releases, and news stories pertaining to the
19 importance of and opportunities for collecting and
20 recycling out-of-service mercury thermostats and
21 distribute those materials to trade publications,
22 local media, and stakeholder groups.

23 (6) Develop ~~On or before January 1, 2011, develop~~ and
24 update as necessary educational and other outreach
25 materials for distribution to contractors, contractor
26 associations, and consumers. Those materials shall be made

1 available for use by participating thermostat wholesalers,
2 thermostat retailers, contractors, and qualified local
3 government authorities. The materials shall include, but
4 not be limited to, the following:

5 (A) signage, such as posters and cling signage,
6 that can be prominently displayed to promote the
7 collection of out-of-service mercury thermostats to
8 contractors and consumers; and

9 (B) written materials or templates of materials
10 for reproduction by thermostat wholesalers and
11 thermostat retailers to be provided to customers at the
12 time of purchase or delivery of a thermostat. The
13 materials shall include, but not be limited to,
14 information on the importance of properly managing
15 out-of-service mercury thermostats and opportunities
16 for the collection of those thermostats.

17 (7) Provide an opportunity for the Agency and other
18 interested stakeholders to offer feedback and suggestions
19 on the collection program.

20 (c) If the collection programs do not collectively achieve
21 the collection goals provided for in Section 25 of this Act for
22 calendar year 2013, 2015 or 2017, thermostat manufacturers
23 shall, individually or collectively, submit to the Agency for
24 review and approval proposed revisions to the collection
25 programs that are designed to achieve the goals in subsequent
26 calendar years. The proposed revisions shall be submitted to

1 the Agency with the annual report required in Section 20 of
2 this Act.

3 (d) Within 90 days after receipt of the proposed collection
4 program revisions required under subsection (c) of this
5 Section, the Agency shall review and (i) approve, (ii)
6 disapprove, or (iii) approve with modifications the proposed
7 collection program revisions.

8 (1) The Agency shall approve proposed revisions if the
9 Agency determines that the revised collection programs
10 will collectively achieve the collection goals set forth in
11 Section 25 of this Act.

12 (2) If the Agency determines the revised collection
13 programs will not collectively achieve the collection
14 goals set forth in Section 25 of this Act, the Agency may
15 require modifications to one or more collection programs
16 that the Agency determines are necessary to achieve the
17 collection goals. Modifications required by the Agency may
18 include improvements to outreach and education conducted
19 under the collection program, expansion of the number and
20 location of collection sites established under the
21 program, modification of the roles of participants, and a
22 \$5 financial incentive in the form of either cash or a
23 coupon offered by the manufacturer to contractors and
24 consumers for each out-of-service mercury thermostat
25 returned to a collection site.

26 (3) Prior to issuing any decision under this subsection

1 (d) the Agency shall consult with thermostat manufacturers
2 and other interested groups.

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

7 (5) If the program revisions are disapproved, the
8 Agency shall notify the thermostat manufacturers in
9 writing as to the reasons for the disapproval. The
10 thermostat manufacturers shall have 35 days to submit a new
11 collection program revision.

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

17 (Source: P.A. 96-1295, eff. 7-26-10.)

18 (415 ILCS 98/20)

19 (Section scheduled to be repealed on January 1, 2021)

20 Sec. 20. Reporting on collection efforts.

21 (a) No ~~later than September 1, 2011, and no~~ later than
22 September 1 of each year ~~thereafter~~, each thermostat
23 manufacturer shall, individually or collectively with other
24 thermostat manufacturers, submit a mid-term report on its
25 collection program to the Agency covering the six-month period

1 beginning on January 1st of the year in which the report is
2 due. The mid-term report shall identify the number of
3 out-of-service mercury thermostats and the number of loose
4 mercury ampoules collected under the program and a listing of
5 all collection sites in the State.

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

15 (1) the number of out-of-service mercury thermostats
16 collected and managed under this Act during the previous
17 calendar year;

18 (1.1) for the annual report due on April 1, 2016, and
19 for each annual report due thereafter, the number of loose
20 mercury ampoules collected and managed under this Act
21 during the previous calendar year;

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

25 (2.1) for the annual report due on April 1, 2016, and
26 for each annual report due thereafter, the estimated total

1 amount of mercury contained in the loose mercury ampoules
2 collected under this Act during the previous calendar year;

3 (3) an evaluation of the effectiveness of the
4 collection program;

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

10 (5) an accounting of the program's administrative
11 costs;

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

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

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

19 (9) a description of how the out-of-service mercury
20 thermostats and loose mercury ampoules were managed;

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

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

1 (Source: P.A. 96-1295, eff. 7-26-10.)

2 (415 ILCS 98/25)

3 (Section scheduled to be repealed on January 1, 2021)

4 Sec. 25. Collection goals. The collection programs
5 established by thermostat manufacturers under this Act shall be
6 designed to collectively achieve the following statewide
7 goals:

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

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

14 (c) For calendar years 2015 through 2020, the collection
15 goals shall be established by the Agency. The Agency shall
16 establish collection goals no later than November 1, 2014. The
17 collection goals established by the Agency shall maximize the
18 annual collection of out-of-service mercury thermostats in the
19 State. In developing the collection goals, the Agency shall
20 take into account, at a minimum, (i) the effectiveness of
21 collection programs for out-of-service mercury thermostats in
22 the State and other states, including education and outreach
23 efforts, (ii) collection requirements in other states, (iii)
24 any reports or studies on the number of out-of-service mercury
25 thermostats that are available for collection in this State,

1 other states, and nationally, and (iv) other factors. Prior to
2 establishing the collection goals, the Agency shall consult
3 with stakeholder groups that include, at a minimum,
4 representatives of thermostat manufacturers, environmental
5 groups, thermostat wholesalers, contractors, and thermostat
6 retailers.

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

22 (e) For the purposes of determining compliance with the
23 collection goals established under this Section, for calendar
24 year 2015 and for each calendar year thereafter, the number of
25 out-of-service mercury thermostats represented by loose
26 ampoules shall be calculated:

1 (1) using a conversion factor such that each loose
2 mercury ampoule collected shall be deemed the equivalent of
3 0.85 mercury thermostats; or

4 (2) using an alternative conversion factor determined
5 by the manufacturer or group of manufacturers.

6 A manufacturer or group of manufacturers shall include data
7 and calculations to support its use of an alternative
8 conversion factor.

9 (Source: P.A. 96-1295, eff. 7-26-10; 97-333, eff. 8-12-11.)

10 (415 ILCS 98/30)

11 (Section scheduled to be repealed on January 1, 2021)

12 Sec. 30. Management of out-of-service mercury thermostats
13 and loose mercury ampoules. All contractors, thermostat
14 wholesalers, thermostat manufacturers, and thermostat
15 retailers participating in the program shall handle and manage
16 ~~the~~ out-of-service mercury thermostats and loose mercury
17 ampoules in a manner that is consistent with the provisions of
18 the universal waste regulations adopted by the Board.

19 (Source: P.A. 96-1295, eff. 7-26-10.)

20 (415 ILCS 98/40)

21 (Section scheduled to be repealed on January 1, 2021)

22 Sec. 40. Agency responsibilities.

23 (a) ~~The No later than June 1, 2011, the~~ Agency shall
24 maintain on its website information regarding the collection

1 and proper management of out-of-service mercury thermostats
2 and loose mercury ampoules in the State. The information shall
3 include, but is not limited to, the following:

4 (1) a description of the collection programs
5 established under this Act;

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

9 (3) a list of all thermostat wholesalers, contractors,
10 qualified local government authorities, and thermostat
11 retailers participating in the program as collection
12 sites.

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

26 (c) In conjunction with the educational and outreach

1 programs implemented by the thermostat manufacturers under
2 this Act, the Agency shall conduct outreach to promote the
3 collection and proper management of out-of-service mercury
4 thermostats and loose mercury ampoules.

5 (Source: P.A. 96-1295, eff. 7-26-10.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law."