

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Environmental Protection Act is amended by changing Section 22.23b as follows:

(415 ILCS 5/22.23b)

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

(a) Beginning July 1, 2005, no person shall purchase or accept, for use in a primary or secondary school classroom, bulk elemental mercury, chemicals containing mercury compounds, or instructional equipment or materials containing mercury added during their manufacture. This subsection (a) does not apply to: (i) other products containing mercury added during their manufacture that are used in schools and (ii) measuring devices used as teaching aids, including, but not limited to, barometers, manometers, and thermometers, if no adequate mercury-free substitute exists.

(b) Beginning July 1, 2007, no person shall sell, offer to sell, distribute, or offer to distribute a mercury switch or mercury relay individually or as a product component. For a product that contains one or more mercury switches or mercury relays as a component, this subsection (b) is applicable to each component part or parts and not the entire product. This

subsection (b) does not apply to the following:

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

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

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

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

(5) A mercury switch or mercury relay used to replace a mercury switch or mercury relay that is a component in a larger product in use prior to July 1, 2007, and one of the following applies:

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

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

(c) ~~The~~ No later than July 1, 2006, the manufacturer of a mercury switch or mercury relay, or a scientific instrument or piece of instructional equipment containing mercury added during its manufacture, may apply to the Agency for an exemption from the provisions of subsection (a) or (b) of this Section for one or more specific uses of the switch, relay, instrument, or piece of equipment by filing a written petition with the Agency. The Agency may grant an exemption, with or

without conditions, if the manufacturer demonstrates the following:

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

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

Before approving any exemption under this subsection (c) the Agency must consult with other states to promote consistency in the regulation of products containing mercury added during their manufacture. Exemptions shall be granted for a period of 5 years. The manufacturer may request renewals of the exemption for additional 5-year periods by filing additional written petitions with the Agency. The Agency may renew an exemption if the manufacturer demonstrates that the criteria set forth in paragraphs (1) and (2) of this subsection (c) continue to be satisfied. All petitions for an exemption or exemption renewal shall be submitted on forms prescribed by the Agency.

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

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

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

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

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

(e) Mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture, are hereby designated as categories of universal waste subject to the streamlined hazardous waste rules set forth in Title 35 of the Illinois Administrative Code, Subtitle G, Chapter I, Subchapter c, Part 733 ("Part 733"). Within 60 days of the effective date of this amendatory Act of the 93rd General Assembly, the Agency shall propose, and within 180 days of receipt of the Agency's proposal the Board shall adopt, rules that reflect this designation and that prescribe procedures and standards for the management of such items as universal waste.

If the United States Environmental Protection Agency adopts streamlined hazardous waste regulations pertaining to the management of mercury switches or mercury relays, or

scientific instruments or instructional equipment containing mercury added during their manufacture, or otherwise exempts such items from regulation as hazardous waste, the Board shall adopt equivalent rules in accordance with Section 7.2 of this Act within 180 days of adoption of the federal regulations. The equivalent Board rules may serve as an alternative to the rules adopted under subsection (1) of this subsection (e).

(f) Beginning July 1, 2008, no person shall install, sell, offer to sell, distribute, or offer to distribute a mercury thermostat in this State. For purposes of this subsection (f), "mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air conditioning equipment. "Mercury thermostat" includes thermostats used to sense and control room temperature in residential, commercial, industrial, and other buildings, but does not include thermostats used to sense and control temperature as a part of a manufacturing or industrial process.

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

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