



Sen. Mattie Hunter

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1 AMENDMENT TO SENATE BILL 1690

2 AMENDMENT NO. _____. Amend Senate Bill 1690 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Mercury Thermostat Collection Act.

6 Section 5. Legislative Findings. The General Assembly
7 finds that it is a goal of the State that programs to collect
8 and recycle mercury thermostats that have been removed,
9 replaced, or otherwise taken out of service should achieve a
10 rate of at least 75 percent by 2014.

11 Section 10. Definitions.

12 "Agency" means the Illinois Environmental Protection
13 Agency.

14 "Board" means the Illinois Pollution Control Board.

15 "Mercury thermostat" means a thermostat that meets the

1 definition of a "mercury thermostat" under subdivision (f) of
2 Section 22.23b of the Environmental Protection Act.

3 "Person" means any individual, partnership,
4 co-partnership, firm, company, limited liability company,
5 corporation, association, joint stock company, trust, estate,
6 political subdivision, state agency, or any other legal entity,
7 or its legal representative, agent, or assigns.

8 "Thermostat manufacturer" means a person that (i) produced
9 a mercury thermostat sold in this State prior to July 1, 2008,
10 or (ii) served as an importer or domestic distributor of a
11 mercury thermostat produced outside of the United States and
12 sold in this State prior to July 1, 2008. "Thermostat
13 manufacturer" does not include retailers for whom importing is
14 not their primary business.

15 "Thermostat retailer" means a person who sells thermostats
16 of any kind primarily to retail consumers.

17 "Thermostat technician" means a person that removes,
18 replaces, or otherwise takes out of service a mercury
19 thermostat. "Thermostat technician" does not include an
20 individual who removes, replaces, or otherwise takes out of
21 service a mercury thermostat that serves his or her own
22 residence.

23 "Thermostat wholesaler" means a person who sells
24 thermostats for resale.

25 Section 15. Mercury thermostat collection programs.

1 (a) Thermostat manufacturers must, individually or
2 collectively, establish and maintain an Agency-approved
3 program for the collection and recycling of mercury thermostats
4 that have been removed, replaced, or otherwise taken out of
5 service. The program must:

6 (1) include outreach and education efforts directed
7 towards the following persons to inform them of the program
8 and encourage their participation: thermostat wholesalers,
9 thermostat technicians, thermostat retailers, and retail
10 consumers;

11 (2) provide the following persons with containers to be
12 used for the collection of mercury thermostats along with
13 information regarding the proper management of mercury
14 thermostats as universal waste in accordance with the
15 Board's universal waste regulations:

16 (A) each thermostat wholesaler who requests to
17 participate in the program as a mercury thermostat
18 collection point;

19 (B) each thermostat technician that requests to
20 participate in the program as a mercury thermostat
21 collection point; and

22 (C) each thermostat retailer that requests to
23 participate in the program as a mercury thermostat
24 collection point;

25 (3) establish a financial incentive with a minimum
26 value of \$5.00 for the return of each mercury thermostat to

1 a collection point participating in the program. The
2 financial incentive shall be in the form of cash or in the
3 form of a coupon that can be redeemed for cash from the
4 thermostat manufacturer or can be redeemed for a credit
5 toward purchase of merchandise from the wholesaler or in
6 the retail location where the thermostat was returned. The
7 incentive terminates on, and this subdivision (a)(3) does
8 not apply after, December 31, 2015; and

9 (4) not include any fees or other charges to persons
10 participating in the program, except that each thermostat
11 wholesaler, thermostat technician, or thermostat retailer
12 that is provided with one or more collection containers may
13 be charged a program administration fee not to exceed \$75
14 per collection container.

15 (a-5) The education and outreach efforts required under
16 subdivision (a)(1) of this Section must include:

17 (A) The development of public service announcements
18 promoting the proper management of mercury thermostats
19 taken out of service.

20 (B) The creation and maintenance of a publicly
21 accessible website for the dissemination of educational
22 materials. The materials must be in a form and format that
23 can be easily downloaded and printed. The Agency must be
24 provided with a link to the website. The materials posted
25 on the website must include, but are not limited to, all of
26 the following:

1 (i) Signs designed to inform thermostat
2 technicians and retail consumers of the program and
3 encourage their participation. The signs must be
4 designed so that they can be prominently displayed and
5 will be easily visible to thermostat technicians and
6 retail consumers.

7 (ii) Written materials, or templates of written
8 materials, that thermostat wholesalers and thermostat
9 retailers can provide to technicians and retail
10 consumers at the time thermostats are purchased or
11 delivered. The written material or templates must
12 include, but are not limited to, information about the
13 proper management of mercury thermostats taken out of
14 service and opportunities for the collection of such
15 thermostats.

16 (C) The development of strategies to contact and work
17 with thermostat wholesalers, technicians, and retailers to
18 secure support for, and participation in, the proper
19 management of mercury thermostats taken out of service.

20 (D) The development of strategies to encourage support
21 and participation by thermostat retailers to educate
22 retail consumers on the proper management of mercury
23 thermostats taken out of service.

24 (b) No later than January 1, 2010, thermostat manufacturers
25 must, individually or collectively, submit to the Agency a plan
26 for a mercury thermostat collection program. The plan must

1 demonstrate that the collection program meets the requirements
2 of subsection (a) of this Section. In reviewing a plan, the
3 Agency may consider the plan's consistency with other
4 thermostat manufacturer's collection plans in this State and
5 mercury thermostat collection programs in other states. In
6 addition, the Agency may consult with thermostat
7 manufacturers, thermostat wholesalers, thermostat technicians,
8 thermostat retailers, and environmental interest groups.
9 Within 120 days after its receipt of a plan, the Agency must
10 approve or deny the plan in writing. The Agency must approve
11 the plan, with or without modifications, if the thermostat
12 manufacturer's collection program meets the requirements of
13 subsection (a) of this Section. If the Agency denies the plan
14 or approves the plan with conditions, the Agency's decision
15 shall be subject to appeal to the Board in accordance with the
16 procedures of Section 40 of the Environmental Protection Act
17 for appealing permit denials or conditions.

18 (c) No later than September 1, 2010, thermostat
19 manufacturers must, individually or collectively, implement an
20 Agency-approved mercury thermostat collection program,
21 including any modifications required by the Agency.

22 (d) No later than March 1, 2011, and no later than March 1
23 of each year thereafter, thermostat manufacturers must,
24 individually or collectively, submit to the Agency a report on
25 their mercury thermostat collection program that at a minimum
26 contains the following information:

1 (1) the number of mercury thermostats collected under
2 the program during the previous calendar year;

3 (2) the estimated total amount of mercury contained in
4 the mercury thermostats collected under the program during
5 the previous calendar year;

6 (3) an evaluation of the effectiveness of the program,
7 including, but not limited to, the effectiveness of the
8 incentives required under subdivision (a)(3) of this
9 Section; and

10 (4) a list of all thermostat wholesalers, thermostat
11 technicians, and thermostat retailers participating in the
12 program as mercury thermostat collection points.

13 Section 20. Management of out-of-service mercury
14 thermostats. Any thermostat technician, wholesaler,
15 manufacturer, or retailer participating in the program must
16 properly manage the mercury thermostat as universal waste in
17 accordance with the Board's universal waste regulations.

18 Section 25. Certain prohibited activities. On and after
19 July 1, 2010:

20 (1) No thermostat wholesaler may sell, offer to sell,
21 distribute, or offer to distribute a non-mercury
22 thermostat unless the wholesaler participates in one or
23 more collection programs required under this Act as a
24 mercury thermostat collection point.

1 (2) No thermostat technician may remove, replace, or
2 otherwise take out of service a mercury thermostat unless
3 the thermostat technician delivers it to a person
4 participating in a collection program required under this
5 Act as a mercury thermostat collection point.

6 Section 30. Information regarding the collection and
7 recycling of mercury thermostats.

8 (a) No later than June 1, 2011, and no later than June 1 of
9 each year thereafter, the Agency must post on its website
10 information regarding the collection and recycling of mercury
11 thermostats in this State. The information must include, but is
12 not limited to, the following:

13 (1) a description of the collection programs
14 established under this Act;

15 (2) a report on the thermostat manufacturers' progress
16 towards achieving the collection goal set forth in Section
17 5 of this Act; and

18 (3) a list of all thermostat wholesalers, thermostat
19 technicians, and thermostat retailers participating in the
20 program as collection points.

21 (b) No later than December 31, 2014 the Agency shall report
22 to the Governor and General Assembly regarding the
23 effectiveness of the program and make recommendations for
24 changes, and whether the incentives required under subdivision
25 (a) (3) of Section 15 should be continued.

1 Section 35. Duty to investigate. The Agency has the duty to
2 investigate violations of this Act.

3 Section 40. Penalties.

4 (a) Any thermostat manufacturer who violates any provision
5 of this Act or fails to perform any duty imposed by this Act
6 (i) is liable for a civil penalty not to exceed \$1,000 for the
7 first violation and an additional civil penalty not to exceed
8 \$1,000 for each day the first violation continues and (ii) is
9 liable for a civil penalty not to exceed \$5,000 for a second or
10 subsequent violation and an additional civil penalty not to
11 exceed \$1,000 for each day the second or subsequent violation
12 continues.

13 (b) Any thermostat wholesaler, thermostat technician, or
14 thermostat retailer who violates any provision of this Act or
15 fails to perform any duty imposed by this Act is liable for a
16 civil penalty not to exceed \$250 for the first violation and
17 not to exceed \$500 for a second or subsequent violation.

18 (c) The penalties provided for in this Section may be
19 recovered in a civil action brought by the Attorney General on
20 behalf of the Agency and the People of the State of Illinois,
21 or by the State's Attorney of the county in which the violation
22 occurred. Without limiting any other authority that may exist
23 for the awarding of attorney's fees and costs, a court of
24 competent jurisdiction may award costs and reasonable

1 attorney's fees, including the reasonable costs of expert
2 witnesses and consultants, to the Attorney General or the
3 State's Attorney in a case where he or she has prevailed
4 against a person who has committed a willful, knowing, or
5 repeated violation of this Act. Any funds collected under this
6 Section in an action in which the Attorney General has
7 prevailed must be deposited into the Hazardous Waste Fund
8 established under the Environmental Protection Act. Any funds
9 collected under this Section in an action in which a State's
10 Attorney has prevailed shall be retained by the county in which
11 he or she serves.

12 (d) The Attorney General or the State's Attorney of the
13 county in which the violation occurred may, at the request of
14 the Agency or on his or her own motion, institute a civil
15 action for an injunction, prohibitory or mandatory, to restrain
16 violations of this Act or to require such other actions as may
17 be necessary to address violations of this Act.

18 (e) The penalties and injunctions provided in this Act are
19 in addition to any penalties, injunctions, or other relief
20 provided under any other law. Nothing in this Act bars a cause
21 of action by the State for any other penalty, injunction, or
22 relief provided by any other law.

23 Section 45. Recommendations to the Governor and the General
24 Assembly. On or before January 1, 2011, the Agency shall
25 investigate and make recommendations to the Governor and the

1 General Assembly regarding strategies for improving the
2 collection and proper management of mercury thermostats
3 removed, replaced, or otherwise taken out of service by
4 homeowners. In developing its recommendations, the Agency
5 shall consult with thermostat manufacturers, thermostat
6 retailers, local governments, recycling associations,
7 environmental interest groups, and other appropriate
8 stakeholder groups. The Agency shall identify the best
9 available options for collecting mercury thermostats from
10 homeowners taking into account such considerations as cost and
11 convenience, safety and training, education and outreach
12 needs, and shared responsibilities for implementing the
13 collection and recycling program.

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