



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2813

Introduced 1/28/2010, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

New Act

Creates the Mercury Thermostat Collection Act. Requires certain thermostat manufacturers, not later than October 1, 2011, to submit to the Illinois Environmental Protection Agency a plan that describes a collection and financial incentive program for mercury thermostats. Requires these manufacturers, no later than January 1, 2012, to implement the Agency-approved plan and to report certain information about their collection efforts by April 1, 2012 and April 1 of each year thereafter. Prohibits, beginning on April 1, 2011, a thermostat wholesaler from selling or distributing thermostats unless it acts as a collection site for thermostats that contain mercury, participates in an education and outreach program to educate consumers on the collection program for mercury thermostats, and meets other requirements. Provides that manufacturers, thermostat wholesalers, and thermostat retailers are subject to certain sales prohibitions beginning on April 1, 2011. Provides for public comment on manufacturer plans. Requires the Agency to post certain information on its website, conduct an educational program, and report certain information about the program to the legislature. Authorizes the Agency to modify manufacturer plans and conduct certain investigations. Defines "Agency", "Board", "out-of-service mercury thermostat", "person", "thermostat manufacturer", "thermostat retailer", and "thermostat wholesaler". Effective immediately.

LRB096 19372 JDS 34763 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 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:

8 (1) each mercury thermostat contains 3 to 5 grams of
9 mercury;

10 (2) mercury is a persistent and toxic pollutant that
11 bioaccumulates in the environment and threatens public health;

12 (3) mercury-containing thermostats release mercury into
13 the environment when handled or disposed of inappropriately;
14 and

15 (4) in order to address these threats to public health and
16 the environment the intent of this Act is to achieve a
17 significant increase in the management and recycling of mercury
18 thermostats and the related education programs.

19 Section 10. Definitions.

20 "Agency" means the Illinois Environmental Protection
21 Agency.

22 "Board" means the Illinois Pollution Control Board.

1 "Mercury thermostat" means a thermostat that meets the
2 definition of "mercury thermostat" under Section 22.23b of the
3 Environmental Protection Act.

4 "Out-of-service mercury thermostat" means a mercury
5 thermostat that is removed, replaced, or otherwise taken out of
6 service.

7 "Person" means any individual, partnership,
8 co-partnership, firm, company, limited liability company,
9 corporation, association, joint stock company, trust, estate,
10 political subdivision, State agency, or any other legal entity
11 or its legal representatives, agents, or assigns.

12 "Thermostat manufacturer" means a person that owns or owned
13 a name brand of one or more mercury thermostats sold in the
14 State.

15 "Thermostat retailer" means a person who sells thermostats
16 of any kind directly to homeowners or other nonprofessionals
17 through any selling or distribution mechanism, including, but
18 not limited to, sales using the Internet or catalogs. A
19 retailer may also be a wholesaler if it meets the definition of
20 wholesaler.

21 "Thermostat wholesaler" means a person that is engaged in
22 the distribution and wholesale sale of heating, ventilation,
23 and air-conditioning components to contractors who install
24 heating, ventilation, and air-conditioning components.

25 Section 15. Mercury thermostat collection programs.

1 (a) Manufacturer responsibility. Each thermostat
2 manufacturer that has offered for final sale, sold at final
3 sale, or has distributed mercury-containing thermostats in
4 Illinois shall, individually or collectively:

5 (1) Not later than October 1, 2011, submit a plan to
6 the Agency for approval that describes a collection and
7 financial incentive program for mercury thermostats. The
8 program contained in this plan shall ensure that the
9 following take place:

10 (A) That an effective education and outreach
11 program shall be developed and shall be directed toward
12 wholesalers, retailers, contractors, units of local
13 government, and homeowners. There shall be no cost to
14 thermostat wholesalers or thermostat retailers for
15 education and outreach materials.

16 (B) That handling and recycling of
17 mercury-containing thermostats are accomplished in a
18 manner that is consistent with the provisions of the
19 universal waste regulations adopted by the Board.

20 (C) That containers for out-of-service
21 mercury-containing thermostat collection are provided
22 to all thermostat wholesalers and to those units of
23 local government, retailers, and contractors that
24 request a container. The cost to thermostat
25 wholesalers, units of local government, retailers, and
26 contractors that request a container shall be limited

1 to an initial one-time fee per container as specified
2 in the plan.

3 (D) That collection systems are provided to all
4 collection points registered pursuant to subdivision
5 (d) (3) of this Section. Collection systems can include
6 individual product mail back or multiple collection
7 containers. The cost to registered collection points
8 shall be limited to an initial one-time fee not to
9 exceed \$75 per container as specified in the plan.

10 (E) That a financial incentive is established with
11 a minimum value of \$5.00 for the return of each
12 mercury-containing thermostat to a thermostat
13 wholesaler by a contractor or service technician. The
14 financial incentive shall be in the form of cash or
15 coupons that are redeemable by the contractor or
16 service technician.

17 (F) That a financial incentive is established with
18 a minimum value of \$5.00 to homeowners or
19 nonprofessionals for the return of each
20 mercury-containing thermostat to a collection point
21 registered with the Agency. The financial incentive
22 shall be in the form of cash or in the form of a coupon
23 that can be redeemed for cash from the manufacturer or
24 can be redeemed for a credit toward purchase of general
25 merchandise in the retail location where the
26 thermostat was returned.

1 (G) That mechanisms to protect against the
2 fraudulent return of thermostats are established.

3 (2) No later than January 1, 2012, implement a mercury
4 thermostat collection plan approved by the Agency under
5 subdivision (d)(1) of this Section.

6 (3) Beginning in 2012, submit an annual report to the
7 Agency by April 1 of each year that includes, at a minimum,
8 all of the following:

9 (A) The number of mercury-containing thermostats
10 collected and recycled by that manufacturer under this
11 Section during the previous calendar year, and the
12 number for each state within the United States.

13 (B) The estimated total amount of mercury
14 contained in the thermostat components collected by
15 that manufacturer under this Section in the previous
16 calendar year, and the amount for each state within the
17 United States.

18 (C) An evaluation of the effectiveness of the
19 manufacturer's collection program and the financial
20 incentive.

21 (D) An accounting of the administrative costs
22 incurred in the course of administering the collection
23 and recycling program and the financial incentive
24 plan.

25 (b) Thermostat wholesaler and thermostat retailer
26 responsibilities.

1 (1) By April 1, 2011, a thermostat wholesaler shall not
2 offer for final sale, sell at final sale, or distribute
3 thermostats unless the wholesaler:

4 (A) acts as a collection site for thermostats that
5 contain mercury; and

6 (B) promotes and utilizes the collection
7 containers provided by thermostat manufacturers to
8 facilitate a contractor collection program as
9 established by subsection (a) of this Section, and all
10 other tasks as needed to establish and maintain a
11 cost-effective manufacturer collection and financial
12 incentive program.

13 (2) By April 1, 2011, a thermostat retailer shall not
14 offer for final sale, sell, or distribute thermostats in
15 the State unless the thermostat retailer participates in an
16 education and outreach program to educate consumers on the
17 collection program for mercury thermostats.

18 (c) Sales prohibition. Beginning April 1, 2011, the
19 following sales prohibitions shall apply to manufacturers,
20 thermostat wholesalers, and thermostat retailers:

21 (1) A manufacturer not in compliance with this Section
22 is prohibited from offering any thermostat for final sale
23 in the State, selling any thermostat at final sale in the
24 State, or distributing any thermostat in the State. A
25 manufacturer not in compliance with this Section shall
26 provide the necessary support to thermostat wholesalers

1 and thermostat retailers to ensure the manufacturer's
2 thermostats are not offered for final sale, sold at final
3 sale, or distributed in this State.

4 (2) A thermostat wholesaler or thermostat retailer
5 shall not offer for final sale, sell at final sale, or
6 distribute in this State any thermostat of a manufacturer
7 that is not in compliance with this Section.

8 (d) Agency responsibilities.

9 (1) Within 60 days after receipt of a complete
10 application from a manufacturer, the Agency shall review
11 and may grant, deny, or approve with modifications a
12 manufacturer plan required by subdivision (a)(1) of this
13 Section. The Agency shall not approve a plan unless all
14 elements of subdivision (a)(1) are adequately addressed.
15 In reviewing a plan, the Agency may consider consistency of
16 the plan with collection and financial incentive
17 requirements in other states and consider consistency
18 between manufacturer collection programs. In reviewing
19 plans, the Agency shall ensure that education and outreach
20 programs are uniform and consistent to ensure ease of
21 implementation by thermostat wholesalers and thermostat
22 retailers.

23 (2) The Agency shall establish a process under which a
24 plan submitted by a manufacturer is, prior to plan
25 approval, made available for public review and comment for
26 30 days. The Agency shall consult with interested persons,

1 including representatives from thermostat manufacturers,
2 environmental groups, thermostat wholesalers, thermostat
3 retailers, service contractors, units of local government,
4 and solid waste agencies.

5 (3) The Agency shall maintain and post on the Agency's
6 website a list of wholesalers, units of local government,
7 solid waste districts, and thermostat retailers who wish to
8 register as collection points for mercury thermostats.

9 (4) In conjunction with the educational and outreach
10 programs implemented by manufacturers, the Agency shall
11 conduct an education and outreach program directed toward
12 wholesalers, retailers, contractors, and homeowners to
13 promote the collection of discarded mercury-containing
14 thermostats.

15 (5) By January 15, 2012, and annually thereafter, the
16 Agency shall submit a report on the collection and
17 recycling of mercury-containing thermostats to the General
18 Assembly and the Chairs of the Senate Environment Committee
19 and the House Energy and Environment Committee. The report
20 due in 2012 must include a description and discussion of
21 the financial incentive plan established under this
22 Section and recommendations for any statutory changes
23 concerning the collection and recycling of
24 mercury-containing thermostats. Subsequent reports must
25 include an evaluation of the effectiveness of the
26 thermostat collection and recycling programs established

1 under this Section, information on actual collection
2 rates, and recommendations for any statutory changes
3 concerning the collection and recycling of
4 mercury-containing thermostats. These reporting
5 requirements may be combined with other reports on mercury
6 that the agency is required to provide to the general
7 assembly.

8 (e) Rate of collection. By July 1, 2011, the Agency shall
9 estimate the number of out-of-service thermostats generated in
10 Illinois each year, in consultation with interested persons,
11 including representatives from thermostat manufacturers,
12 thermostat wholesalers, thermostat retailers, service
13 contractors, environmental groups, units of local government,
14 and solid waste districts. Beginning July 1, 2012, should
15 collection efforts fail to result in the collection and
16 recycling of at least 65 percent of the out-of-service
17 mercury-containing thermostats in the State, the Agency shall,
18 in consultation with interested persons, require modifications
19 to manufacturers' collection plans in an attempt to improve
20 collection rates in accordance with these goals. The Agency or
21 its representatives may inspect manufacturer records, request
22 the performance of third-party audits, or undertake other
23 investigatory activities as may be necessary to determine or
24 verify historic mercury thermostat sales or collection program
25 effectiveness data.

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.