

**96TH GENERAL ASSEMBLY****State of Illinois****2009 and 2010****SB3346**

Introduced 2/10/2010, by Sen. Heather Steans

SYNOPSIS AS INTRODUCED:

New Act

Creates the Mercury Thermostat Collection Act. Requires thermostat manufacturers to establish an out-of-service mercury thermostat collection program that meets certain requirements. Requires thermostat manufacturers to submit certain reports on their collection programs to the Agency. Sets goals for the collection of out-of-service mercury thermostats. Provides that if those goals are not met, then the manufacturers must revise their collection programs as necessary to achieve the applicable goal. Requires contractors, service technicians, thermostat wholesalers, thermostat manufacturers, and thermostat retailers to handle and manage out-of-service mercury thermostats in a manner that is consistent with the provisions of the universal waste regulations adopted by the Illinois Pollution Control Board. On and after January 1, 2011, prohibits (i) thermostat wholesalers from selling, offering to sell, distributing, or offering to distribute thermostats unless certain requirements are met and (ii) contractors from removing, replacing, or otherwise taking mercury thermostats out of service unless the contractors deliver those thermostats to a collection site. On and after January 1, 2011, prohibits thermostat manufacturers that are in violation of the Act from selling, offering to sell, distributing, or offering to distribute thermostats in the State. Requires the Agency to post certain information on its website and to report certain information to the General Assembly. Provides for prosecution by the Attorney General or the State's Attorney of the county in which a violation occurs. Requires the Agency to make certain recommendations to the Governor and General Assembly by January 1, 2012. Effective immediately.

LRB096 15744 HLH 30983 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 it is in the public interest to substantially
8 increase the scope and effectiveness of programs that collect
9 and handle out-of-service mercury thermostats for end-of-life
10 management.

11 Section 10. Definitions.

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

14 "Board" means the Illinois Pollution Control Board.

15 "Contractor" means a person who installs or services
16 heating, ventilation, or air-conditioning components.

17 "Mercury thermostat" means a thermostat that meets the
18 definition of a "mercury thermostat" under subsection (f) of
19 Section 22.23b of the Environmental Protection Act.

20 "Out-of-service mercury thermostat" means a mercury
21 thermostat that is removed, replaced, or otherwise taken out of
22 service.

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

6 "Thermostat manufacturer" means a person that owns or owned
7 a name brand of one or more mercury thermostats sold in the
8 State.

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

15 "Thermostat wholesaler" means a person who is engaged in
16 the distribution and wholesale selling of heating,
17 ventilation, and air-conditioning components, including, but
18 not limited to, thermostats, to contractors.

19 Section 15. Mercury thermostat collection programs.
20 Thermostat manufacturers must, individually or collectively,
21 establish and maintain a program for the collection,
22 transportation, and proper management of out-of-service
23 mercury thermostats in accordance with the provisions of this
24 Act. The program must do all of the following:

25 (1) On and after January 1, 2011, provide containers

1 for the collection of out-of-service mercury thermostats
2 to all thermostat wholesalers, along with information
3 regarding the proper management of mercury thermostats as
4 universal waste in accordance with the Board's
5 regulations.

6 (2) On and after January 1, 2011, make collection
7 containers available to any local government agency that
8 requests a container for use at a household hazardous waste
9 collection facility; collection containers shall also be
10 provided to thermostat retailers and contractors that
11 request a container.

12 (3) Either arrange for pick up of the collection
13 containers that are provided under items (1) and (2) or pay
14 for the costs of shipping those containers from the
15 collection site to a facility for proper end-of-life
16 management.

17 (4) Include incentives to encourage contractors to
18 participate in the collection programs.

19 (5) Not include any fees or other charges to persons
20 participating in the program, except that each thermostat
21 wholesaler, contractor, or thermostat retailer that is
22 provided with one or more collection containers may be
23 charged an initial, one-time program administration fee
24 not to exceed \$75 per collection container.

25 (6) From January 1, 2011, to December 31, 2015,
26 inclusive, conduct education and outreach efforts,

1 including, but not limited to, all of the following:

2 (A) creating a public service announcement
3 promoting collection and proper management of
4 out-of-service mercury thermostats; and providing
5 copies of the public service announcement to the
6 Agency;

7 (B) establishing and maintaining a publicly
8 accessible website for the dissemination of
9 educational materials; posting templates of the
10 educational materials on the Internet website in a form
11 and format that can be easily downloaded and printed;
12 and providing the Agency with a link to the website;

13 (C) contacting and working with thermostat
14 wholesalers to secure their support and participation
15 in educating their customers on the collection and
16 proper management of out-of-service mercury
17 thermostats; and

18 (D) encouraging support and participation by
19 thermostat retailers in educating their customers on
20 collection and proper management of out-of-service
21 mercury thermostats.

22 (7) On or before January 1, 2011, develop, and update
23 as necessary, educational and other outreach materials
24 aimed at contractors, contractor associations, and
25 homeowners. Those materials shall be made available for use
26 by participating thermostat wholesalers, thermostat

1 retailers, and local government hazardous waste collection
2 facilities. The materials shall include, but not be limited
3 to, the following:

4 (A) signage that is prominently displayed and
5 easily visible to contractors and consumers;

6 (B) written materials and templates of materials
7 for reproduction by thermostat wholesalers and
8 retailers to be provided to customers at the time of
9 purchase or delivery of a thermostat; the materials
10 shall include, but not be limited to, information on
11 the proper management of out-of-service mercury
12 thermostats and opportunities for their collection;
13 and

14 (C) advertising, other promotional materials, or
15 both that include references to the collection
16 opportunities.

17 Section 20. Reporting on collection efforts.

18 (a) No later than September 1, 2011, and no later than
19 September 1 of each year thereafter, thermostat manufacturers
20 must individually or collectively submit a mid-term report on
21 their collection program to the Agency covering the period
22 beginning on January 1st of the year in which the report is due
23 and ending on June 30th of that year. The mid-term report shall
24 identify the number of out-of-service mercury thermostats
25 collected under the program.

1 (b) No later than April 1, 2012, and no later than April 1
2 of each year thereafter, thermostat manufacturers must,
3 individually or collectively, submit an annual report on their
4 collection program to the Agency covering the one-year period
5 ending December 31st of the previous year. Each report shall be
6 posted on the manufacturer's or program's Internet website. The
7 annual report shall include, but not be limited to, all of the
8 following:

9 (1) the number of out-of-service mercury thermostats
10 collected under the program during the previous calendar
11 year;

12 (2) the estimated total amount of mercury contained in
13 the out-of-service mercury thermostats collected under the
14 program during the previous calendar year;

15 (3) an evaluation of the effectiveness of the program;

16 (4) a list of all thermostat wholesalers, contractors,
17 local government household waste collection facilities,
18 and thermostat retailers participating in the program as
19 mercury thermostat collection sites and the number of
20 out-of-service mercury thermostats returned by each;

21 (5) an accounting of the program administrative costs;

22 (6) commencing with the report due April 1, 2013, a
23 comparison to the statewide collection goals set forth in
24 Section 25 of this Act;

25 (7) a description of outreach strategies employed
26 under item (6) of Section 15 of this Act to increase

1 participation and collection rates;

2 (8) examples of outreach and educational materials
3 used under item (7) of Section 15 of this Act;

4 (9) the Internet website address where the annual
5 report may be viewed online;

6 (10) a description of how the collected out-of-service
7 mercury thermostats were managed; and

8 (11) modifications that the manufacturer is planning
9 to make in its collection program.

10 Section 25. Collection goals.

11 (a) The mercury thermostat collection programs required
12 under this Act shall be designed to collectively achieve the
13 following statewide collection goals:

14 (1) for calendar years 2012 and 2013, the collection
15 goal for each year is 15% of the estimated number of
16 out-of-service mercury thermostats generated in the State;

17 (2) for calendar years 2014 and 2015, the collection
18 goal for each year is 30% of the estimated number of
19 out-of-service mercury thermostats generated in the State;

20 (3) for calendar years 2016 and 2017, the collection
21 goal for each year is 50% of the estimated number of
22 out-of-service mercury thermostats generated in the State;
23 and

24 (4) for calendar year 2018 and each calendar year
25 thereafter, the collection goal for each year is 80% of the

1 estimated number of out-of-service mercury thermostats
2 generated in the State.

3 (b) No later than June 1, 2012, the Agency shall, in
4 consultation with thermostat manufacturers and other
5 stakeholder groups, estimate the number of out-of-service
6 mercury thermostats generated in the State each year.

7 (c) If the collection goals set forth in subsection (a) of
8 this Section are not met for the calendar year 2013, 2015,
9 2017, or 2018, thermostat manufacturers must, individually or
10 collectively, revise their mercury thermostat collection
11 program and undertake other actions as necessary to achieve the
12 applicable collection goals in subsequent years.

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

20 Section 35. Thermostat wholesaler and contractor
21 responsibilities. On and after January 1, 2011:

22 (1) No thermostat wholesaler shall sell, offer to sell,
23 distribute, or offer to distribute thermostats unless the
24 wholesaler:

1 (A) participates in one or more collection programs
2 required under this Act as a collection site for
3 out-of-service mercury thermostats;

4 (B) uses the containers provided by the thermostat
5 manufacturer to facilitate collection of out-of-service
6 mercury thermostats by contractors; and

7 (C) distributes to its customers the educational
8 outreach materials developed under paragraph (8) of
9 Section 15.

10 (2) No contractor shall remove, replace, or otherwise take
11 out of service a mercury thermostat unless the contractor
12 delivers it to a collection site established under this Act.

13 Section 40. Certain prohibited activities. On and after
14 January 1, 2011, no thermostat manufacturer that is in
15 violation of this Act shall sell, offer to sell, distribute, or
16 offer to distribute a thermostat in this State.

17 Section 45. Information regarding the collection and
18 recycling of mercury thermostats.

19 (a) No later than June 1, 2012, and no later than September
20 1 of each year thereafter, the Agency must post on its website
21 information regarding the collection and proper management of
22 out-of-service mercury thermostats in the State. The
23 information must include, but is not limited to, the following:

24 (1) a description of the collection programs

1 established under this Act;

2 (2) a report on the progress towards achieving the
3 statewide collection goals set forth in subsection (a) of
4 Section 25 of this Act; and

5 (3) a list of all thermostat wholesalers, contractors,
6 local government household hazardous waste collection
7 facilities, and thermostat retailers participating in the
8 program as collection sites.

9 (b) No later than December 31, 2015, the Agency shall
10 report to the Governor and General Assembly regarding the
11 effectiveness of the thermostat collection and recycling
12 program and, if necessary, shall make recommendations for any
13 statutory changes.

14 Section 50. Enforcement. Prosecutions for violations of
15 this Act may be conducted by the Attorney General or the
16 State's Attorney of the county in which the violation occurred.

17 Section 55. Recommendations to the Governor and the General
18 Assembly. On or before January 1, 2012, the Agency shall
19 investigate and make recommendations to the Governor and the
20 General Assembly regarding strategies for improving the
21 collection and proper management of out-of-service mercury
22 thermostats generated by homeowners and other
23 nonprofessionals. In developing its recommendations, the
24 Agency shall consult with thermostat manufacturers, thermostat

1 retailers, local governments, recycling associations,
2 environmental interest groups, and other appropriate
3 stakeholder groups. The Agency shall identify the best
4 available options for collecting out-of-service mercury
5 thermostats from homeowners and other nonprofessionals, taking
6 into account such considerations as cost and convenience,
7 safety, education and outreach needs, and shared
8 responsibilities for implementing the collection program.

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