

1 AN ACT concerning environmental 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 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
16 definition of a "mercury thermostat" under subdivision (f) of
17 Section 22.23b of the Environmental Protection Act.

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

1 "Thermostat manufacturer" means a person that (i) produced
2 a mercury thermostat sold in this State prior to July 1, 2008,
3 or (ii) served as an importer or domestic distributor of a
4 mercury thermostat produced outside of the United States and
5 sold in this State prior to July 1, 2008. "Thermostat
6 manufacturer" does not include retailers for whom importing is
7 not their primary business.

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

10 "Thermostat technician" means a person that removes,
11 replaces, or otherwise takes out of service a mercury
12 thermostat. "Thermostat technician" does not include an
13 individual who removes, replaces, or otherwise takes out of
14 service a mercury thermostat that serves his or her own
15 residence.

16 "Thermostat wholesaler" means a person who sells
17 thermostats for resale.

18 Section 15. Mercury thermostat collection programs.

19 (a) Thermostat manufacturers must, individually or
20 collectively, establish and maintain an Agency-approved
21 program for the collection and recycling of mercury thermostats
22 that have been removed, replaced, or otherwise taken out of
23 service. The program must:

24 (1) include outreach and education efforts directed
25 towards the following persons to inform them of the program

1 and encourage their participation: thermostat wholesalers,
2 thermostat technicians, thermostat retailers, and retail
3 consumers;

4 (2) provide the following persons with containers to be
5 used for the collection of mercury thermostats along with
6 information regarding the proper management of mercury
7 thermostats as universal waste in accordance with the
8 Board's universal waste regulations:

9 (A) each thermostat wholesaler who requests to
10 participate in the program as a mercury thermostat
11 collection point;

12 (B) each thermostat technician that requests to
13 participate in the program as a mercury thermostat
14 collection point; and

15 (C) each thermostat retailer that requests to
16 participate in the program as a mercury thermostat
17 collection point;

18 (3) establish a financial incentive with a minimum
19 value of \$5.00 for the return of each mercury thermostat to
20 a collection point participating in the program. The
21 financial incentive shall be in the form of cash or in the
22 form of a coupon that can be redeemed for cash from the
23 thermostat manufacturer or can be redeemed for a credit
24 toward purchase of merchandise from the wholesaler or in
25 the retail location where the thermostat was returned. The
26 incentive terminates on, and this subdivision (a)(3) does

1 not apply after, December 31, 2015; and

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

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

10 (A) The development of public service announcements
11 promoting the proper management of mercury thermostats
12 taken out of service.

13 (B) The creation and maintenance of a publicly
14 accessible website for the dissemination of educational
15 materials. The materials must be in a form and format that
16 can be easily downloaded and printed. The Agency must be
17 provided with a link to the website. The materials posted
18 on the website must include, but are not limited to, all of
19 the following:

20 (i) Signs designed to inform thermostat
21 technicians and retail consumers of the program and
22 encourage their participation. The signs must be
23 designed so that they can be prominently displayed and
24 will be easily visible to thermostat technicians and
25 retail consumers.

26 (ii) Written materials, or templates of written

1 materials, that thermostat wholesalers and thermostat
2 retailers can provide to technicians and retail
3 consumers at the time thermostats are purchased or
4 delivered. The written material or templates must
5 include, but are not limited to, information about the
6 proper management of mercury thermostats taken out of
7 service and opportunities for the collection of such
8 thermostats.

9 (C) The development of strategies to contact and work
10 with thermostat wholesalers, technicians, and retailers to
11 secure support for, and participation in, the proper
12 management of mercury thermostats taken out of service.

13 (D) The development of strategies to encourage support
14 and participation by thermostat retailers to educate
15 retail consumers on the proper management of mercury
16 thermostats taken out of service.

17 (b) No later than January 1, 2010, thermostat manufacturers
18 must, individually or collectively, submit to the Agency a plan
19 for a mercury thermostat collection program. The plan must
20 demonstrate that the collection program meets the requirements
21 of subsection (a) of this Section. In reviewing a plan, the
22 Agency may consider the plan's consistency with other
23 thermostat manufacturer's collection plans in this State and
24 mercury thermostat collection programs in other states. In
25 addition, the Agency may consult with thermostat
26 manufacturers, thermostat wholesalers, thermostat technicians,

1 thermostat retailers, and environmental interest groups.
2 Within 120 days after its receipt of a plan, the Agency must
3 approve or deny the plan in writing. The Agency must approve
4 the plan, with or without modifications, if the thermostat
5 manufacturer's collection program meets the requirements of
6 subsection (a) of this Section. If the Agency denies the plan
7 or approves the plan with conditions, the Agency's decision
8 shall be subject to appeal to the Board in accordance with the
9 procedures of Section 40 of the Environmental Protection Act
10 for appealing permit denials or conditions.

11 (c) No later than September 1, 2010, thermostat
12 manufacturers must, individually or collectively, implement an
13 Agency-approved mercury thermostat collection program,
14 including any modifications required by the Agency.

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

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

22 (2) the estimated total amount of mercury contained in
23 the mercury thermostats collected under the program during
24 the previous calendar year;

25 (3) an evaluation of the effectiveness of the program,
26 including, but not limited to, the effectiveness of the

1 incentives required under subdivision (a)(3) of this
2 Section; and

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

6 Section 20. Management of out-of-service mercury
7 thermostats. Any thermostat technician, wholesaler,
8 manufacturer, or retailer participating in the program must
9 properly manage the mercury thermostat as universal waste in
10 accordance with the Board's universal waste regulations.

11 Section 25. Certain prohibited activities. On and after
12 July 1, 2010:

13 (1) No thermostat wholesaler may sell, offer to sell,
14 distribute, or offer to distribute a non-mercury
15 thermostat unless the wholesaler participates in one or
16 more collection programs required under this Act as a
17 mercury thermostat collection point.

18 (2) No thermostat technician may remove, replace, or
19 otherwise take out of service a mercury thermostat unless
20 the thermostat technician delivers it to a person
21 participating in a collection program required under this
22 Act as a mercury thermostat collection point.

23 Section 30. Information regarding the collection and

1 recycling of mercury thermostats.

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

7 (1) a description of the collection programs
8 established under this Act;

9 (2) a report on the thermostat manufacturers' progress
10 towards achieving the collection goal set forth in Section
11 5 of this Act; and

12 (3) a list of all thermostat wholesalers, thermostat
13 technicians, and thermostat retailers participating in the
14 program as collection points.

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

20 Section 35. Duty to investigate. The Agency has the duty to
21 investigate violations of this Act.

22 Section 40. Penalties.

23 (a) Any thermostat manufacturer who violates any provision
24 of this Act or fails to perform any duty imposed by this Act

1 (i) is liable for a civil penalty not to exceed \$1,000 for the
2 first violation and an additional civil penalty not to exceed
3 \$1,000 for each day the first violation continues and (ii) is
4 liable for a civil penalty not to exceed \$5,000 for a second or
5 subsequent violation and an additional civil penalty not to
6 exceed \$1,000 for each day the second or subsequent violation
7 continues.

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

13 (c) The penalties provided for in this Section may be
14 recovered in a civil action brought by the Attorney General on
15 behalf of the Agency and the People of the State of Illinois,
16 or by the State's Attorney of the county in which the violation
17 occurred. Without limiting any other authority that may exist
18 for the awarding of attorney's fees and costs, a court of
19 competent jurisdiction may award costs and reasonable
20 attorney's fees, including the reasonable costs of expert
21 witnesses and consultants, to the Attorney General or the
22 State's Attorney in a case where he or she has prevailed
23 against a person who has committed a willful, knowing, or
24 repeated violation of this Act. Any funds collected under this
25 Section in an action in which the Attorney General has
26 prevailed must be deposited into the Hazardous Waste Fund

1 established under the Environmental Protection Act. Any funds
2 collected under this Section in an action in which a State's
3 Attorney has prevailed shall be retained by the county in which
4 he or she serves.

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

11 (e) The penalties and injunctions provided in this Act are
12 in addition to any penalties, injunctions, or other relief
13 provided under any other law. Nothing in this Act bars a cause
14 of action by the State for any other penalty, injunction, or
15 relief provided by any other law.

16 Section 45. Recommendations to the Governor and the General
17 Assembly. On or before January 1, 2011, the Agency shall
18 investigate and make recommendations to the Governor and the
19 General Assembly regarding strategies for improving the
20 collection and proper management of mercury thermostats
21 removed, replaced, or otherwise taken out of service by
22 homeowners. In developing its recommendations, the Agency
23 shall consult with thermostat manufacturers, thermostat
24 retailers, local governments, recycling associations,
25 environmental interest groups, and other appropriate

1 stakeholder groups. The Agency shall identify the best
2 available options for collecting mercury thermostats from
3 homeowners taking into account such considerations as cost and
4 convenience, safety and training, education and outreach
5 needs, and shared responsibilities for implementing the
6 collection and recycling program.

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