

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 5. The Mercury Thermostat Collection Act is amended
5 by changing Sections 5, 10, 15, 20, 25, 30, and 40 as follows:

6 (415 ILCS 98/5)

7 (Section scheduled to be repealed on January 1, 2021)

8 Sec. 5. Legislative findings. The General Assembly finds
9 that:

10 (1) many older thermostats used to activate heating and
11 cooling equipment contain mercury as part of a tilt switch
12 component in the thermostat;

13 (2) the total amount of mercury used in each of those
14 thermostats averages about 4 grams;

15 (3) millions of mercury-containing thermostats are still
16 in use in homes and businesses in the United States;

17 (4) mercury in those thermostats poses a risk to human
18 health and the environment if those thermostats are not
19 properly managed at the end of their useful life;

20 (5) the major thermostat manufacturers have established a
21 voluntary program to facilitate the collection and proper
22 management of mercury thermostats taken out of service;

23 (6) the annual average of mercury-containing thermostats

1 collected for recycling in Illinois under the existing
2 voluntary collection program from 2006 to 2008 was 4,433;

3 (7) thousands of mercury-containing thermostats are taken
4 out of service annually in the State;

5 (8) it is in the public interest to achieve a significant
6 increase in the collection and proper management of mercury
7 thermostats taken out of service in the State; i -

8 (9) the manufacturers' program collects whole, intact
9 mercury thermostats and warns against including loose mercury
10 ampoules in collection bins, but participants frequently
11 include loose mercury ampoules in collection bins.

12 (Source: P.A. 96-1295, eff. 7-26-10.)

13 (415 ILCS 98/10)

14 (Section scheduled to be repealed on January 1, 2021)

15 Sec. 10. Definitions.

16 "Agency" means the Illinois Environmental Protection
17 Agency.

18 "Board" means the Illinois Pollution Control Board.

19 "Collection program" means a system for the collection,
20 transportation, recycling, and disposal of out-of-service
21 mercury thermostats that is financed and managed or provided by
22 a thermostat manufacturer individually or collectively with
23 other thermostat manufacturers in accordance with this Act.

24 "Contractor" means a person engaged in the business of
25 installation, service, or removal of heating, ventilation, and

1 air-conditioning components.

2 "Loose mercury ampoule" means an enclosed glass vessel that
3 contains liquid mercury and has been removed intact from a
4 mercury thermostat.

5 "Mercury thermostat" means a thermostat that meets the
6 definition of a "mercury thermostat" under subsection (f) of
7 Section 22.23b of the Environmental Protection Act.

8 "Out-of-service mercury thermostat" means a mercury
9 thermostat that is removed, replaced, or otherwise taken out of
10 service.

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

16 "Qualified contractor" means a person engaged in the
17 business of installation, service, or removal of heating,
18 ventilation, and air-conditioning components who employs 7 or
19 more service technicians or installers or who is located in an
20 area outside of an urban area, as defined by the United States
21 Bureau of the Census.

22 "Qualified local government authorities" means household
23 hazardous waste facilities, solid waste management agencies,
24 environmental management agencies, or departments of public
25 health.

26 "Thermostat manufacturer" means a person who owns or owned

1 a name brand of one or more mercury thermostats sold in the
2 State.

3 "Thermostat retailer" means a person who sells thermostats
4 of any kind primarily to homeowners or other nonprofessionals
5 through any sale or distribution mechanism, including, but not
6 limited to, sales using the Internet or catalogs. A thermostat
7 retailer that meets the definition of thermostat wholesaler
8 shall be considered a thermostat wholesaler.

9 "Thermostat wholesaler" means a person who is engaged in
10 the distribution and wholesale selling of heating,
11 ventilation, and air-conditioning components, including, but
12 not limited to, thermostats, to contractors, and whose total
13 wholesale sales account for 80% or more of its total sales. A
14 thermostat manufacturer, as defined in this Section, is not a
15 thermostat wholesaler.

16 (Source: P.A. 96-1295, eff. 7-26-10.)

17 (415 ILCS 98/15)

18 (Section scheduled to be repealed on January 1, 2021)

19 Sec. 15. Mercury thermostat collection programs.

20 (a) Each thermostat manufacturer shall, individually or
21 collectively with other thermostat manufacturers, establish
22 and maintain a collection program for the collection,
23 transportation, and proper management of out-of-service
24 mercury thermostats and loose mercury ampoules in accordance
25 with the provisions of this Act.

1 (b) Each thermostat manufacturer shall, individually or
2 collectively with other thermostat manufacturers through a
3 collection program, do the following:

4 (1) Compile ~~On and after January 1, 2011, compile~~ a
5 list of thermostat wholesalers in the State and offer each
6 thermostat wholesaler containers for the collection of
7 out-of-service mercury thermostats.

8 (2) Make ~~On and after January 1, 2011, make~~ collection
9 containers available to all qualified contractors,
10 thermostat wholesalers, thermostat retailers, and
11 qualified local government authorities in this State that
12 request a container. Each thermostat manufacturer shall
13 with each container include information regarding the
14 proper management of out-of-service mercury thermostats
15 and loose mercury ampoules as universal waste in accordance
16 with the collection program and Board's rules.

17 (3) Establish a system to collect, transport, and
18 properly manage out-of-service mercury thermostats and
19 loose mercury ampoules from all collection sites
20 established under this Section.

21 (4) Not include any fees or other charges to persons
22 participating in the program, except that each thermostat
23 wholesaler, qualified contractor, qualified local
24 government authority, or thermostat retailer that is
25 provided with one or more collection containers may be
26 charged a one-time program administration fee not to exceed

1 \$75 per collection container.

2 (5) From January 1, 2011, through December 31, 2013,
3 conduct education and outreach efforts, including, but not
4 limited to the following:

5 (A) create a public service announcement promoting
6 collection and proper management of out-of-service
7 mercury thermostats, copies of which shall be provided
8 to the Agency;

9 (B) establish and maintain a publicly accessible
10 website for the dissemination of educational materials
11 to promote the collection of out-of-service mercury
12 thermostats. This website shall include templates of
13 the educational materials on the Internet website in a
14 form and format that can be easily downloaded and
15 printed. The link to this website shall be provided to
16 the Agency;

17 (C) contact thermostat wholesalers at least once a
18 year to encourage their support and participation in
19 educating their customers on the importance of and
20 statutory requirements for the collection and proper
21 management of out-of-service mercury thermostats;

22 (D) develop and implement strategies to encourage
23 participating thermostat retailers to educate their
24 customers on the importance of and opportunities for
25 collecting and recycling out-of-service mercury
26 thermostats;

1 (E) create and maintain a web-based program that
2 allows contractors and consumers to identify
3 collection sites for out-of-service mercury
4 thermostats by zip code in the State;

5 (F) prepare and mail to contractor associations a
6 postcard or other notice that provides information on
7 the collection program for out-of-service mercury
8 thermostats; and

9 (G) develop informational articles, press
10 releases, and news stories pertaining to the
11 importance of and opportunities for collecting and
12 recycling out-of-service mercury thermostats and
13 distribute those materials to trade publications,
14 local media, and stakeholder groups.

15 (6) Develop ~~On or before January 1, 2011, develop~~ and
16 update as necessary educational and other outreach
17 materials for distribution to contractors, contractor
18 associations, and consumers. Those materials shall be made
19 available for use by participating thermostat wholesalers,
20 thermostat retailers, contractors, and qualified local
21 government authorities. The materials shall include, but
22 not be limited to, the following:

23 (A) signage, such as posters and cling signage,
24 that can be prominently displayed to promote the
25 collection of out-of-service mercury thermostats to
26 contractors and consumers; and

1 (B) written materials or templates of materials
2 for reproduction by thermostat wholesalers and
3 thermostat retailers to be provided to customers at the
4 time of purchase or delivery of a thermostat. The
5 materials shall include, but not be limited to,
6 information on the importance of properly managing
7 out-of-service mercury thermostats and opportunities
8 for the collection of those thermostats.

9 (7) Provide an opportunity for the Agency and other
10 interested stakeholders to offer feedback and suggestions
11 on the collection program.

12 (c) If the collection programs do not collectively achieve
13 the collection goals provided for in Section 25 of this Act for
14 calendar year 2013, 2015 or 2017, thermostat manufacturers
15 shall, individually or collectively, submit to the Agency for
16 review and approval proposed revisions to the collection
17 programs that are designed to achieve the goals in subsequent
18 calendar years. The proposed revisions shall be submitted to
19 the Agency with the annual report required in Section 20 of
20 this Act.

21 (d) Within 90 days after receipt of the proposed collection
22 program revisions required under subsection (c) of this
23 Section, the Agency shall review and (i) approve, (ii)
24 disapprove, or (iii) approve with modifications the proposed
25 collection program revisions.

26 (1) The Agency shall approve proposed revisions if the

1 Agency determines that the revised collection programs
2 will collectively achieve the collection goals set forth in
3 Section 25 of this Act.

4 (2) If the Agency determines the revised collection
5 programs will not collectively achieve the collection
6 goals set forth in Section 25 of this Act, the Agency may
7 require modifications to one or more collection programs
8 that the Agency determines are necessary to achieve the
9 collection goals. Modifications required by the Agency may
10 include improvements to outreach and education conducted
11 under the collection program, expansion of the number and
12 location of collection sites established under the
13 program, modification of the roles of participants, and a
14 \$5 financial incentive in the form of either cash or a
15 coupon offered by the manufacturer to contractors and
16 consumers for each out-of-service mercury thermostat
17 returned to a collection site.

18 (3) Prior to issuing any decision under this subsection
19 (d) the Agency shall consult with thermostat manufacturers
20 and other interested groups.

21 (4) Thermostat manufacturers shall begin the process
22 to implement collection program revisions approved by the
23 Agency, with or without modifications, within 90 days after
24 approval.

25 (5) If the program revisions are disapproved, the
26 Agency shall notify the thermostat manufacturers in

1 writing as to the reasons for the disapproval. The
2 thermostat manufacturers shall have 35 days to submit a new
3 collection program revision.

4 (6) Any action by the Agency to disapprove or modify
5 proposed collection program revisions under this
6 subsection (d) shall be subject to appeal to the Board in
7 the same manner as provided for a permit decision under
8 Section 40 of the Environmental Protection Act.

9 (Source: P.A. 96-1295, eff. 7-26-10.)

10 (415 ILCS 98/20)

11 (Section scheduled to be repealed on January 1, 2021)

12 Sec. 20. Reporting on collection efforts.

13 (a) No ~~later than September 1, 2011, and no~~ later than
14 September 1 of each year ~~thereafter~~, each thermostat
15 manufacturer shall, individually or collectively with other
16 thermostat manufacturers, submit a mid-term report on its
17 collection program to the Agency covering the six-month period
18 beginning on January 1st of the year in which the report is
19 due. The mid-term report shall identify the number of
20 out-of-service mercury thermostats and the number of loose
21 mercury ampoules collected under the program and a listing of
22 all collection sites in the State.

23 (b) No ~~later than April 1, 2012, and no~~ later than April 1
24 of each year ~~thereafter~~, each thermostat manufacturer shall,
25 individually or collectively with other thermostat

1 manufacturers, submit an annual report on its collection
2 program to the Agency covering the one-year period ending
3 December 31st of the previous year. Each report shall be posted
4 on the manufacturer's or program operator's respective
5 internet website. The annual report shall include, but not be
6 limited to, the following:

7 (1) the number of out-of-service mercury thermostats
8 collected and managed under this Act during the previous
9 calendar year;

10 (1.1) for the annual report due on April 1, 2016, and
11 for each annual report due thereafter, the number of loose
12 mercury ampoules collected and managed under this Act
13 during the previous calendar year;

14 (2) the estimated total amount of mercury contained in
15 the out-of-service mercury thermostats collected under
16 this Act during the previous calendar year;

17 (2.1) for the annual report due on April 1, 2016, and
18 for each annual report due thereafter, the estimated total
19 amount of mercury contained in the loose mercury ampoules
20 collected under this Act during the previous calendar year;

21 (3) an evaluation of the effectiveness of the
22 collection program;

23 (4) a list of all thermostat wholesalers, contractors,
24 qualified local government authorities, and thermostat
25 retailers participating in the program as mercury
26 thermostat collection sites and the number of

- 1 out-of-service mercury thermostats returned by each;
- 2 (5) an accounting of the program's administrative
3 costs;
- 4 (6) a description of outreach strategies employed
5 under item (5) of subsection (b) of Section 15 of this Act;
- 6 (7) examples of outreach and educational materials
7 used under item (6) of subsection (b) of Section 15 of this
8 Act;
- 9 (8) the Internet website address or addresses where the
10 annual report may be viewed online;
- 11 (9) a description of how the out-of-service mercury
12 thermostats and loose mercury ampoules were managed;
- 13 (10) any modifications that the thermostat
14 manufacturer has made or is planning to make in its
15 collection program; and
- 16 (11) the identification of a collection program
17 contact and the business phone number, mailing address, and
18 e-mail address for the contact.

19 (Source: P.A. 96-1295, eff. 7-26-10.)

20 (415 ILCS 98/25)

21 (Section scheduled to be repealed on January 1, 2021)

22 Sec. 25. Collection goals. The collection programs
23 established by thermostat manufacturers under this Act shall be
24 designed to collectively achieve the following statewide
25 goals:

1 (a) For calendar year 2011, the collection of least 5,000
2 mercury thermostats taken out of service in the State during
3 the calendar year.

4 (b) For calendar years 2012, 2013, and 2014, the collection
5 of at least 15,000 mercury thermostats taken out of service in
6 the State during each calendar year.

7 (c) For calendar years 2015 through 2020, the collection
8 goals shall be established by the Agency. The Agency shall
9 establish collection goals no later than November 1, 2014. The
10 collection goals established by the Agency shall maximize the
11 annual collection of out-of-service mercury thermostats in the
12 State. In developing the collection goals, the Agency shall
13 take into account, at a minimum, (i) the effectiveness of
14 collection programs for out-of-service mercury thermostats in
15 the State and other states, including education and outreach
16 efforts, (ii) collection requirements in other states, (iii)
17 any reports or studies on the number of out-of-service mercury
18 thermostats that are available for collection in this State,
19 other states, and nationally, and (iv) other factors. Prior to
20 establishing the collection goals, the Agency shall consult
21 with stakeholder groups that include, at a minimum,
22 representatives of thermostat manufacturers, environmental
23 groups, thermostat wholesalers, contractors, and thermostat
24 retailers.

25 (d) The collection goals established by the Agency under
26 subsection (c) of this Section are statements of general

1 applicability under Section 1-70 of the Illinois
2 Administrative Procedure Act and shall be adopted in accordance
3 with the procedures of that Act. Any person adversely affected
4 by a goal established by the Agency under subsection (c) of
5 this Section may obtain a determination of the validity or
6 application of the goal by filing a petition for review within
7 35 days after the date the adopted goal is published in the
8 Illinois Register pursuant to subsection (d) of Section 40 of
9 the Illinois Administrative Procedure Act. Review shall be
10 afforded directly in the Appellate Court for the District in
11 which the cause of action arose and not the Circuit Court.
12 During the pendency of the review, the goal under review shall
13 remain in effect.

14 (e) For the purposes of determining compliance with the
15 collection goals established under this Section, for calendar
16 year 2015 and for each calendar year thereafter, the number of
17 out-of-service mercury thermostats represented by loose
18 ampoules shall be calculated:

19 (1) using a conversion factor such that each loose
20 mercury ampoule collected shall be deemed the equivalent of
21 0.85 mercury thermostats; or

22 (2) using an alternative conversion factor determined
23 by the manufacturer or group of manufacturers.

24 A manufacturer or group of manufacturers shall include data
25 and calculations to support its use of an alternative
26 conversion factor.

1 (Source: P.A. 96-1295, eff. 7-26-10; 97-333, eff. 8-12-11.)

2 (415 ILCS 98/30)

3 (Section scheduled to be repealed on January 1, 2021)

4 Sec. 30. Management of out-of-service mercury thermostats
5 and loose mercury ampoules. All contractors, thermostat
6 wholesalers, thermostat manufacturers, and thermostat
7 retailers participating in the program shall handle and manage
8 ~~the~~ out-of-service mercury thermostats and loose mercury
9 ampoules in a manner that is consistent with the provisions of
10 the universal waste regulations adopted by the Board.

11 (Source: P.A. 96-1295, eff. 7-26-10.)

12 (415 ILCS 98/40)

13 (Section scheduled to be repealed on January 1, 2021)

14 Sec. 40. Agency responsibilities.

15 (a) The ~~No later than June 1, 2011, the~~ Agency shall
16 maintain on its website information regarding the collection
17 and proper management of out-of-service mercury thermostats
18 and loose mercury ampoules in the State. The information shall
19 include, but is not limited to, the following:

20 (1) a description of the collection programs
21 established under this Act;

22 (2) a report on the progress towards achieving the
23 statewide collection goals set forth in Section 25 of this
24 Act; and

1 (3) a list of all thermostat wholesalers, contractors,
2 qualified local government authorities, and thermostat
3 retailers participating in the program as collection
4 sites.

5 (b) No later than November 1, 2019, the Agency shall submit
6 a written report to the Governor and General Assembly regarding
7 the effectiveness of the collection programs established under
8 this Act, information on the number of out-of-service
9 thermostats and loose mercury ampoules collected, how the
10 out-of-service thermostats and loose mercury ampoules were
11 managed, and an estimate of the number of thermostats that are
12 available for collection. The Agency shall use this information
13 to recommend whether the sunset date specified in Section 55
14 for this Act should be extended, along with any other statutory
15 changes. In preparing the report, the Agency shall consult with
16 mercury thermostat manufacturers, environmental organizations,
17 and other interest groups.

18 (c) In conjunction with the educational and outreach
19 programs implemented by the thermostat manufacturers under
20 this Act, the Agency shall conduct outreach to promote the
21 collection and proper management of out-of-service mercury
22 thermostats and loose mercury ampoules.

23 (Source: P.A. 96-1295, eff. 7-26-10.)

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