

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 and by
6 adding Section 51 as follows:

7 (415 ILCS 98/5)

8 (Section scheduled to be repealed on January 1, 2021)

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

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

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

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

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

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

1 (6) the annual average of mercury-containing thermostats
2 collected for recycling in Illinois under the existing
3 voluntary collection program from 2006 to 2008 was 4,433;

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

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

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

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

14 (415 ILCS 98/10)

15 (Section scheduled to be repealed on January 1, 2021)

16 Sec. 10. Definitions.

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

19 "Board" means the Illinois Pollution Control Board.

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

25 "Commercial building" has the meaning ascribed to that term

1 in subsection (d) of Section 10.09-1 of the Capital Development
2 Board Act.

3 "Contractor" means a person engaged in the business of
4 installation, service, or removal of heating, ventilation, and
5 air-conditioning components.

6 "Loose mercury ampoule" means an enclosed glass vessel that
7 contains liquid mercury and has been removed intact from a
8 mercury thermostat.

9 "Mercury thermostat" means a thermostat that meets the
10 definition of a "mercury thermostat" under subsection (f) of
11 Section 22.23b of the Environmental Protection Act.

12 "Out-of-service mercury thermostat" means a mercury
13 thermostat that is removed, replaced, or otherwise taken out of
14 service.

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

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

26 "Qualified local government authorities" means household

1 hazardous waste facilities, solid waste management agencies,
2 environmental management agencies, or departments of public
3 health.

4 "Thermostat manufacturer" means a person who owns or owned
5 a name brand of one or more mercury thermostats sold in the
6 State.

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

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

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

21 (415 ILCS 98/15)

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

23 Sec. 15. Mercury thermostat collection programs.

24 (a) Each thermostat manufacturer shall, individually or
25 collectively with other thermostat manufacturers, establish

1 and maintain a collection program for the collection,
2 transportation, and proper management of out-of-service
3 mercury thermostats and loose mercury ampoules in accordance
4 with the provisions of this Act.

5 (b) Each thermostat manufacturer shall, individually or
6 collectively with other thermostat manufacturers through a
7 collection program, do the following:

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

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

21 (3) Establish a system to collect, transport, and
22 properly manage out-of-service mercury thermostats and
23 loose mercury ampoules from all collection sites
24 established under this Section.

25 (4) Not include any fees or other charges to persons
26 participating in the program, except that each thermostat

1 wholesaler, qualified contractor, qualified local
2 government authority, or thermostat retailer that is
3 provided with one or more collection containers may be
4 charged a one-time program administration fee not to exceed
5 \$75 per collection container.

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

9 (A) create a public service announcement promoting
10 collection and proper management of out-of-service
11 mercury thermostats, copies of which shall be provided
12 to the Agency;

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

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

26 (D) develop and implement strategies to encourage

1 participating thermostat retailers to educate their
2 customers on the importance of and opportunities for
3 collecting and recycling out-of-service mercury
4 thermostats;

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

9 (F) prepare and mail to contractor associations a
10 postcard or other notice that provides information on
11 the collection program for out-of-service mercury
12 thermostats; and

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

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

1 (A) signage, such as posters and cling signage,
2 that can be prominently displayed to promote the
3 collection of out-of-service mercury thermostats to
4 contractors and consumers; and

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

13 (7) Provide an opportunity for the Agency and other
14 interested stakeholders to offer feedback and suggestions
15 on the collection program.

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

25 (d) Within 90 days after receipt of the proposed collection
26 program revisions required under subsection (c) of this

1 Section, the Agency shall review and (i) approve, (ii)
2 disapprove, or (iii) approve with modifications the proposed
3 collection program revisions.

4 (1) The Agency shall approve proposed revisions if the
5 Agency determines that the revised collection programs
6 will collectively achieve the collection goals set forth in
7 Section 25 of this Act.

8 (2) If the Agency determines the revised collection
9 programs will not collectively achieve the collection
10 goals set forth in Section 25 of this Act, the Agency may
11 require modifications to one or more collection programs
12 that the Agency determines are necessary to achieve the
13 collection goals. Modifications required by the Agency may
14 include improvements to outreach and education conducted
15 under the collection program, expansion of the number and
16 location of collection sites established under the
17 program, modification of the roles of participants, and a
18 \$5 financial incentive in the form of either cash or a
19 coupon offered by the manufacturer to contractors and
20 consumers for each out-of-service mercury thermostat
21 returned to a collection site.

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

25 (4) Thermostat manufacturers shall begin the process
26 to implement collection program revisions approved by the

1 Agency, with or without modifications, within 90 days after
2 approval.

3 (5) If the program revisions are disapproved, the
4 Agency shall notify the thermostat manufacturers in
5 writing as to the reasons for the disapproval. The
6 thermostat manufacturers shall have 35 days to submit a new
7 collection program revision.

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

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

14 (415 ILCS 98/20)

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

16 Sec. 20. Reporting on collection efforts.

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

1 all collection sites in the State.

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

11 (1) the number of out-of-service mercury thermostats
12 collected and managed under this Act during the previous
13 calendar year;

14 (1.1) for the annual report due on April 1, 2016, and
15 for each annual report due thereafter, the number of loose
16 mercury ampoules collected and managed under this Act
17 during the previous calendar year;

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

21 (2.1) for the annual report due on April 1, 2016, and
22 for each annual report due thereafter, the estimated total
23 amount of mercury contained in the loose mercury ampoules
24 collected under this Act during the previous calendar year;

25 (3) an evaluation of the effectiveness of the
26 collection program;

1 (4) a list of all thermostat wholesalers, contractors,
2 qualified local government authorities, and thermostat
3 retailers participating in the program as mercury
4 thermostat collection sites and the number of
5 out-of-service mercury thermostats returned by each;

6 (5) an accounting of the program's administrative
7 costs;

8 (6) a description of outreach strategies employed
9 under item (5) of subsection (b) of Section 15 of this Act;

10 (7) examples of outreach and educational materials
11 used under item (6) of subsection (b) of Section 15 of this
12 Act;

13 (8) the Internet website address or addresses where the
14 annual report may be viewed online;

15 (9) a description of how the out-of-service mercury
16 thermostats and loose mercury ampoules were managed;

17 (10) any modifications that the thermostat
18 manufacturer has made or is planning to make in its
19 collection program; and

20 (11) the identification of a collection program
21 contact and the business phone number, mailing address, and
22 e-mail address for the contact.

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

24 (415 ILCS 98/25)

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

1 Sec. 25. Collection goals. The collection programs
2 established by thermostat manufacturers under this Act shall be
3 designed to collectively achieve the following statewide
4 goals:

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

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

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

1 groups, thermostat wholesalers, contractors, and thermostat
2 retailers.

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

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

23 (1) using a conversion factor such that each loose
24 mercury ampoule collected shall be deemed the equivalent of
25 0.85 mercury thermostats; or

26 (2) using an alternative conversion factor determined

1 by the manufacturer or group of manufacturers.

2 A manufacturer or group of manufacturers shall include data
3 and calculations to support its use of an alternative
4 conversion factor.

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

6 (415 ILCS 98/30)

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

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

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

16 (415 ILCS 98/40)

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

18 Sec. 40. Agency responsibilities.

19 (a) The ~~No later than June 1, 2011,~~ the Agency shall
20 maintain on its website information regarding the collection
21 and proper management of out-of-service mercury thermostats
22 and loose mercury ampoules in the State. The information shall
23 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 Section 25 of this
4 Act; and

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

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

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

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

2 (415 ILCS 98/51 new)

3 Sec. 51. Removal of mercury thermostats from commercial
4 buildings prior to demolition. Beginning January 1, 2016, no
5 person shall demolish a commercial building unless (i) all
6 mercury thermostats have been removed from the building and
7 (ii) the person who removed the thermostats from the building
8 has arranged for them to be delivered to a collection site
9 established under this Act.

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