
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 830 Session of
2007

INTRODUCED BY GREENLEAF, COSTA, RAFFERTY, WASHINGTON,
TARTAGLIONE, C. WILLIAMS, FERLO AND FUMO, MAY 3, 2007

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MAY 3, 2007

AN ACT

1 Prohibiting the sale and restricting the disposal of mercury
2 thermostats; and prescribing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Mercury-Free
7 Thermostat Act.

8 Section 2. Legislative findings.

9 The General Assembly finds and declares as follows:

10 (1) Waterways throughout this Commonwealth have been
11 placed under fish consumption advisory warnings due to high
12 levels of mercury contamination.

13 (2) Mercury thermostats represent the largest amount of
14 mercury in ordinary household products, with a single mercury
15 thermostat often containing between three and five grams of
16 mercury.

17 (3) A voluntary program to collect mercury thermostats

1 from contractors created by three thermostat manufacturers
2 has been operating in this Commonwealth since 2000.

3 (4) It is in the public interest to significantly
4 increase the scope and effectiveness of existing mercury
5 thermostat collection programs through enactment of a
6 mandatory recycling law.

7 (5) Electronic programmable thermostats that do not
8 contain mercury are readily available and can save consumers
9 considerable money in home energy costs when used correctly.

10 (6) Snap switch thermostats that function like mercury
11 thermostats but contain no mercury are also available.

12 Section 3. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Department." The Department of Environmental Protection of
17 the Commonwealth.

18 "Manufacturer." The owner of a brand name on a thermostat.

19 "Mercury thermostat." A product or device that contains
20 mercury or a mercury compound and is used to sense and control
21 room temperature through communication with heating, ventilating
22 or air-conditioning equipment. The term does not include such
23 product or device used to sense and control temperature as part
24 of a manufacturing process.

25 "Wholesaler." A business that the Department of
26 Environmental Protection determines is primarily engaged in the
27 distribution and wholesale selling of large quantities of
28 heating, ventilation and air conditioning components to
29 contractors who install heating, ventilation and air
30 conditioning components.

1 Section 4. Prohibition on sale of mercury thermostats.

2 Beginning January 1, 2008, or one year after the effective
3 date of this section, whichever occurs first, no person shall
4 sell, offer for sale or distribute a mercury thermostat in this
5 Commonwealth.

6 Section 5. Restrictions on disposal of mercury thermostats.

7 (a) Improper disposal prohibited.--

8 (1) Beginning one year after the effective date of this
9 section, no person, municipality or operator of a solid waste
10 treatment, processing or disposal facility shall dispose,
11 permit the disposal of or send to a resource recovery
12 facility for processing a mercury thermostat from which the
13 mercury has not been removed for reuse, recycling or other
14 methods approved by the department.

15 (2) This subsection shall not be construed to affect
16 prior existing laws, rules or regulations more stringent than
17 the provisions under paragraph (1) governing the disposal of
18 mercury, mercury thermostats and other products containing
19 mercury.

20 (b) Safe disposal education.--The department shall develop a
21 plan for educating schools, local governments, businesses and
22 the public on proper disposal methods for mercury thermostats
23 and other products containing mercury.

24 Section 6. Collection programs required.

25 (a) Duty of manufacturers to establish.--Each manufacturer
26 of mercury thermostats that have been sold in this Commonwealth
27 shall, individually or collectively, establish and maintain a
28 department-approved collection and recycling program for out-of-
29 service mercury thermostats from contractors, service
30 technicians and homeowners. The program may not involve any

1 direct cost to contractors, service technicians or homeowners
2 for participating in the program, except wholesalers and
3 contractors may be assessed a one-time administrative fee for
4 each authorized collection bin provided for their own use. The
5 program shall be developed in a manner that ensures to the
6 maximum extent that:

7 (1) The capture rate of out-of-service mercury
8 thermostats is maximized.

9 (2) Adequate incentives and education are provided to
10 contractors, service technicians and homeowners to encourage
11 return of thermostats to established recycling collection
12 points.

13 (3) Stakeholders, including representatives from
14 thermostat wholesalers, service contractors, environmental
15 groups, municipal government and housing agencies, are
16 provided opportunity to provide feedback and suggestions
17 during the program's development and implementation.

18 (4) The purchase of mercury-free programmable
19 thermostats qualified by the Environmental Protection
20 Agency's Energy Star program as replacements for mercury
21 thermostats is encouraged.

22 (5) Mechanisms are in place to protect against the
23 fraudulent return of thermostats.

24 (6) The handling and recycling of mercury thermostats is
25 accomplished in a manner compliant with section 5 and all
26 other applicable Federal, State and local requirements.

27 (7) Storage bins are provided that comply with
28 applicable Federal and State universal waste requirements for
29 mercury thermostat collection to all heating, ventilation and
30 air conditioning supply, electrical supply and plumbing

1 supply distributor locations that sell thermostats in this
2 Commonwealth.

3 (8) Storage bins are provided that comply with
4 applicable Federal and State universal waste requirements for
5 mercury thermostat collection to all municipalities and
6 others requesting bins for mercury thermostat collection at
7 universal waste collection sites or at periodic household
8 hazardous waste collection events, as long as the collection
9 sites or events are approved by the department for mercury
10 thermostat collection.

11 (9) A plan is developed for educating local governments,
12 contractors, wholesalers, retailers and the public to
13 encourage the recycling of mercury thermostats.

14 (10) An annual report is submitted to the department
15 each year, by a date to be determined by the department, that
16 includes at a minimum:

17 (i) The number of mercury thermostats collected and
18 recycled by that manufacturer pursuant to this section
19 during the previous year.

20 (ii) The estimated total amount of mercury contained
21 in the mercury components collected by that manufacturer
22 pursuant to this section.

23 (iii) An evaluation of the effectiveness of the
24 manufacturer's collection and recycling program and any
25 incentives provided.

26 (iv) An accounting of the administrative costs
27 incurred in the course of administering the collection
28 and recycling program developed pursuant to this section.

29 (11) The program otherwise implements all aspects of the
30 collection program as instructed by the department.

1 (b) Special sales prohibition.--

2 (1) A manufacturer that violates this section is
3 prohibited from offering any thermostat for sale in this
4 Commonwealth.

5 (2) A manufacturer that violates this section shall
6 provide the necessary support to retailers to ensure the
7 manufacturer's thermostats are not offered for sale in this
8 Commonwealth.

9 (3) A wholesaler or retailer may not offer for sale in
10 this Commonwealth any thermostat of a manufacturer that
11 violates this section.

12 (c) Wholesaler and retailer participation.--

13 (1) Beginning one year after the effective date of this
14 section, a wholesaler or retailer may not sell a thermostat
15 in this Commonwealth unless the wholesaler or retailer acts
16 as a collection site for thermostats that contain mercury.

17 (2) A wholesaler or retailer may meet the requirements
18 of this subsection by participating as a collection site in a
19 manufacturer collection program as described under subsection
20 (a) or by collecting thermostats that contain mercury and
21 disposing of the collected thermostats in accordance with
22 applicable Federal and State universal waste rules.

23 (d) Department oversight.--

24 (1) Each manufacturer shall submit to the department for
25 review and approval the collection program required under
26 subsection (a) no later than 90 days after the effective date
27 of this section, except that the portion of the program
28 applicable to homeowner collection shall be submitted no
29 later than September 30, 2007. The proposed program may
30 include appropriate enhancements to an existing program or a

1 new program.

2 (2) Within 30 days after receipt of a manufacturer's
3 collection program proposal, the department shall issue a
4 public notice of the availability of the proposal and solicit
5 public comment on it. Within 90 days after receipt of a
6 proposal, the department shall approve, conditionally approve
7 or disapprove the entire proposal.

8 (3) If the program proposal is approved, with or without
9 conditions, the manufacturer or manufacturers shall begin
10 implementing the program within 30 days after receipt of
11 approval.

12 (4) If the entire plan is disapproved, the department
13 shall inform the manufacturer as to the reasons for the
14 disapproval. The manufacturer shall have 30 days thereafter
15 to submit a new plan.

16 (5) If the new plan is disapproved following public
17 notice and an opportunity to comment, the manufacturer shall
18 be considered out of compliance for the purposes of
19 subsection (c) beginning on the date the new plan is
20 disapproved by the department.

21 (6) In conducting its duties under this subsection, the
22 department shall take into account the experience of relevant
23 thermostat collection programs in other states and approve a
24 proposed manufacturer collection program if it contains terms
25 and conditions sufficient for the department to conclude that
26 the proposed program represents the best available approach
27 to improve substantially mercury thermostat collection in
28 this Commonwealth.

29 (e) Safe disposal education.--The department shall develop a
30 plan for educating schools, local governments, businesses and

1 the public on proper disposal methods for mercury thermostats
2 and other products containing mercury.

3 (f) Goals.--

4 (1) By June 30, 2007, the department shall, in
5 consultation with stakeholders, estimate how many mercury
6 thermostats become out of service in this Commonwealth each
7 year. The goal of the collection programs outlined in this
8 section shall be to collect at least 50% of out-of-service
9 mercury thermostats in calendar year 2009 and at least 80%
10 per year in calendar year 2012 and thereafter.

11 (2) Should collection efforts fail to meet these goals,
12 the department shall, in consultation with stakeholders,
13 require alterations to collection programs in an attempt to
14 improve collection rates in accordance with these goals.

15 (3) The department may alter any and all elements of the
16 previously approved manufacturer collection programs,
17 including, but not limited to, the size and nature of the
18 incentives provided, the number and location of the
19 collection points and the roles of thermostat manufacturers,
20 wholesalers, retailers, service contractors and municipal
21 governments in the collection programs, provided such
22 alterations are not inconsistent with the requirements of
23 this and other applicable laws.

24 (g) Reporting.--

25 (1) Within 90 days after receipt of the manufacturers'
26 annual reports, the department shall publish information on
27 its Internet website about the collection and recycling of
28 mercury thermostats in this Commonwealth. This information
29 shall include:

30 (i) An estimate of how many mercury thermostats go

1 out of service in this Commonwealth each year.

2 (ii) A description of the collection programs
3 established under this section.

4 (iii) Data on actual collection rates.

5 (iv) Any recommendations for changes concerning the
6 collection and recycling of mercury thermostats.

7 (2) The Secretary of Environmental Protection may
8 discontinue the requirement for the annual report pursuant to
9 this subsection on finding that mercury thermostats no longer
10 pose a threat to the environment and to public health.

11 Section 7. Penalties.

12 The department may levy an administrative fine on a person
13 who violates section 4 or 5. The fine shall not exceed \$2,500
14 for each violation.

15 Section 8. Effective date.

16 This act shall take effect in one year.