
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 44

Session of
2007

INTRODUCED BY RUBLEY, GEORGE, D. O'BRIEN, ADOLPH, CALTAGIRONE,
DePASQUALE, FRANKEL, GOODMAN, GRELL, HENNESSEY, HERSHEY,
KENNEY, LEACH, MOUL, MUNDY, ROSS, SCAVELLO, SCHRODER,
SHAPIRO, SIPTROTH, STERN, SURRA, TANGRETTI, VEREB, VITALI,
WALKO, WATSON, YOUNGBLOOD, MELIO, GALLOWAY AND FABRIZIO,
JANUARY 30, 2007

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 30, 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

1 mercury.

2 (3) A voluntary program to collect mercury thermostats
3 from contractors created by three thermostat manufacturers
4 has been operating in this Commonwealth since 2000.

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

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

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

14 Section 3. Definitions.

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

18 "Department." The Department of Environmental Protection of
19 the Commonwealth.

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

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

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

1 contractors who install heating, ventilation and air
2 conditioning components.

3 Section 4. Prohibition on sale of mercury thermostats.

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

8 Section 5. Restrictions on disposal of mercury thermostats.

9 (a) Improper disposal prohibited.--

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

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

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

26 Section 6. Collection programs required.

27 (a) Duty of manufacturers to establish.--Each manufacturer
28 of mercury thermostats that have been sold in this Commonwealth
29 shall, individually or collectively, establish and maintain a
30 department-approved collection and recycling program for out-of-

1 service mercury thermostats from contractors, service
2 technicians and homeowners. The program may not involve any
3 direct cost to contractors, service technicians or homeowners
4 for participating in the program, except wholesalers and
5 contractors may be assessed a one-time administrative fee for
6 each authorized collection bin provided for their own use. The
7 program shall be developed in a manner that ensures to the
8 maximum extent that:

9 (1) The capture rate of out-of-service mercury
10 thermostats is maximized.

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

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

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

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

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

29 (7) Storage bins are provided that comply with
30 applicable Federal and State universal waste requirements for

1 mercury thermostat collection to all heating, ventilation and
2 air conditioning supply, electrical supply and plumbing
3 supply distributor locations that sell thermostats in this
4 Commonwealth.

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

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

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

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

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

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

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

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

3 (b) Special sales prohibition.--

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

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

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

14 (c) Wholesaler and retailer participation.--

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

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

25 (d) Department oversight.--

26 (1) Each manufacturer shall submit to the department for
27 review and approval the collection program required under
28 subsection (a) no later than 90 days after the effective date
29 of this section, except that the portion of the program
30 applicable to homeowner collection shall be submitted no

1 later than September 30, 2007. The proposed program may
2 include appropriate enhancements to an existing program or a
3 new program.

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

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

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

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

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

1 (e) Safe disposal education.--The department shall develop a
2 plan for educating schools, local governments, businesses and
3 the public on proper disposal methods for mercury thermostats
4 and other products containing mercury.

5 (f) Goals.--

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

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

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

26 (g) Reporting.--

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

1 shall include:

2 (i) An estimate of how many mercury thermostats go
3 out of service in this Commonwealth each year.

4 (ii) A description of the collection programs
5 established under this section.

6 (iii) Data on actual collection rates.

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

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

13 Section 7. Penalties.

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

17 Section 8. Effective date.

18 This act shall take effect in one year.