

House File 2669 - Enrolled

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1 1 HOUSE FILE 2669
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1 3 AN ACT
1 4 RELATING TO THE COLLECTION AND RECYCLING OF MERCURY=ADDED
1 5 THERMOSTATS.
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1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 9 Section 1. NEW SECTION. 455D.31 MERCURY == THERMOSTATS.
1 10 1. As used in this section, unless the context otherwise
1 11 requires:
1 12 a. "Manufacturer" means any person, firm, association,
1 13 partnership, corporation, governmental entity, organization,
1 14 combination, or joint venture that owns or owned the brand
1 15 name of the thermostat.
1 16 b. "Mercury=added thermostat" means a product or device
1 17 that uses a mercury switch to sense and control room
1 18 temperature through communication with heating, ventilating,
1 19 or air=conditioning equipment. "Mercury=added thermostat"
1 20 includes thermostats used to sense and control room
1 21 temperature in residential, commercial, industrial, and other
1 22 buildings but does not include thermostats used to sense and
1 23 control temperature as part of a manufacturing process.
1 24 c. "Thermostat retailer" means a person who sells
1 25 thermostats of any kind directly to homeowners or other
1 26 nonprofessionals through any selling or distribution
1 27 mechanism, including but not limited to sales using the
1 28 internet or catalogues. A thermostat retailer may also be a
1 29 thermostat wholesaler if it meets the definition of thermostat
1 30 wholesaler.
1 31 d. "Thermostat wholesaler" means a person who is engaged
1 32 in the distribution and wholesale selling of large quantities
1 33 of heating, ventilation, and air=conditioning components,
1 34 including thermostats, to contractors who install heating,
1 35 ventilation, and air=conditioning components, including
2 1 thermostats.
2 2 2. Beginning July 1, 2009, a person shall not sell, offer
2 3 for sale, or install a mercury=added thermostat in this state.
2 4 3. Beginning April 1, 2009, except as otherwise provided,
2 5 a person who generates a discarded mercury=added thermostat
2 6 shall manage the mercury=added thermostat as a hazardous waste
2 7 or universal hazardous waste, according to all applicable
2 8 state and federal regulations. A contractor who replaces or
2 9 removes mercury=added thermostats shall assure that any
2 10 discarded mercury=added thermostat is subject to proper
2 11 separation and management as hazardous waste or universal
2 12 hazardous waste. A contractor who replaces a mercury=added
2 13 thermostat in a residence shall deliver the mercury=added
2 14 thermostat to an appropriate collection location for
2 15 recycling.

2 16 4. Each thermostat manufacturer that has offered for final
2 17 sale, sold at final sale, or distributed mercury-added
2 18 thermostats in the state shall individually, or in conjunction
2 19 with other thermostat manufacturers, do all of the following:

2 20 a. Not later than October 1, 2008, submit a plan to the
2 21 department for approval describing a collection program for
2 22 mercury-added thermostats. The program contained in the plan
2 23 shall ensure that all the following take place:

2 24 (1) That an education and outreach program is developed.
2 25 The program shall be directed toward thermostat wholesalers,
2 26 thermostat retailers, contractors, and homeowners and ensure a
2 27 maximum rate of collection of mercury-added thermostats.

2 28 There shall not be a cost to thermostat wholesalers or
2 29 thermostat retailers for education and outreach materials.

2 30 (2) That handling and recycling of mercury-added
2 31 thermostats are accomplished in a manner that is consistent
2 32 with the provisions of the universal waste rules.

2 33 (3) That containers for mercury-added thermostat
2 34 collection are provided to all thermostat wholesalers. The
2 35 cost to thermostat wholesalers for such containers shall be
3 1 limited to an initial, reasonable, one-time fee per container
3 2 as specified in the plan.

3 3 (4) That collection points will be established to serve
3 4 homeowners. The collection points shall include but are not
3 5 limited to regional collection centers permitted under 567 IAC
3 6 123. Collection points may include but are not limited to
3 7 thermostat retailers.

3 8 (5) That collection systems are provided to all collection
3 9 points. Collection systems may include individual product
3 10 mail back or multiple collection containers. The costs of
3 11 collection shall not be passed on to a collection point. The
3 12 costs to a collection point shall be limited to an initial,
3 13 reasonable, one-time fee per container as specified in the
3 14 plan.

3 15 b. Not later than April 1, 2009, implement a mercury-added
3 16 thermostat collection plan approved by the department.

3 17 c. Beginning in 2010, submit an annual report to the
3 18 department by April 1 of each year that includes, at a
3 19 minimum, all of the following:

3 20 (1) The number of mercury-added thermostats collected and
3 21 recycled by that manufacturer during the previous calendar
3 22 year.

3 23 (2) The estimated total amount of mercury contained in the
3 24 thermostat components collected by that manufacturer during
3 25 the previous calendar year.

3 26 (3) A list of all participating thermostat wholesalers and
3 27 all collection points for homeowners.

3 28 (4) An evaluation of the effectiveness of the
3 29 manufacturer's collection program.

3 30 (5) An accounting of the administrative costs incurred in
3 31 the course of administering the collection and recycling
3 32 program.

3 33 5. a. By April 1, 2009, a thermostat wholesaler shall do
3 34 both of the following:

3 35 (1) Act as a collection site for mercury-added
4 1 thermostats.

4 2 (2) Promote and utilize the collection containers provided

4 3 by thermostat manufacturers to facilitate a contractor
4 4 collection program.

4 5 b. By April 1, 2009, a thermostat retailer shall
4 6 participate in an education and outreach program to educate
4 7 consumers on the collection program for mercury-added
4 8 thermostats.

4 9 6. Beginning April 1, 2009, all of the following sales
4 10 prohibitions shall apply to thermostat manufacturers,
4 11 thermostat wholesalers, and thermostat retailers:

4 12 a. A thermostat manufacturer not in compliance with this
4 13 section is prohibited from offering any thermostat for final
4 14 sale in the state. A thermostat manufacturer not in
4 15 compliance with this section shall provide the necessary
4 16 support to thermostat wholesalers and thermostat retailers to
4 17 ensure the manufacturer's thermostats are not offered for
4 18 final sale.

4 19 b. A thermostat wholesaler or thermostat retailer shall
4 20 not offer for final sale any thermostat of a manufacturer that
4 21 is not in compliance with this section.

4 22 7. The department shall do all of the following:

4 23 a. Review and grant approval of, deny, or approve with
4 24 modifications a manufacturer plan required under this section.
4 25 The department shall not approve a plan unless all elements of
4 26 subsection 4, paragraph "a", are adequately addressed and the
4 27 program outlined in the plan will assure a maximum rate of
4 28 collection of mercury-added thermostats. In reviewing a plan
4 29 the department may consider consistency of the plan with
4 30 collection requirements in other states and consider
4 31 consistency between thermostat manufacturer collection
4 32 programs. In reviewing plans, the agency shall ensure that
4 33 education and outreach programs are uniform and consistent to
4 34 ensure ease of implementation by thermostat wholesalers and
4 35 thermostat retailers.

5 1 b. The department shall establish a process for public
5 2 review and comment on all plans submitted by thermostat
5 3 manufacturers prior to plan approval. The department shall
5 4 consult with interested persons, including representatives of
5 5 thermostat manufacturers, environmental groups, thermostat
5 6 wholesalers, thermostat retailers, contractors, and local
5 7 government.

5 8 c. By January 15, 2010, and annually thereafter, the
5 9 department shall submit a written report to the general
5 10 assembly regarding the collection and recycling of
5 11 mercury-added thermostats in the state. The first report
5 12 submitted shall include recommendations for any statutory
5 13 changes concerning the collection and recycling of
5 14 mercury-added thermostats. Subsequent reports shall include
5 15 an evaluation of the effectiveness of the mercury-added
5 16 thermostat collection and recycling programs, information on
5 17 actual collection rates, and recommendations for any statutory
5 18 changes concerning the collection and recycling of
5 19 mercury-added thermostats.

5 20 8. The goal of the collection and recycling efforts under
5 21 this section is to collect and recycle as many mercury-added
5 22 thermostats as reasonably practicable. By January 1, 2009,
5 23 the department shall determine collection goals for the
5 24 program in consultation with interested persons, including the

5 25 national electrical manufacturers association and
5 26 representatives of thermostat manufacturers, thermostat
5 27 wholesalers, thermostat retailers, contractors, environmental
5 28 groups, and local government. If collection efforts fail to
5 29 meet the collection goals described in this subsection, the
5 30 department shall, in consultation with the national electrical
5 31 manufacturers association and other interested persons,
5 32 consider modifications to collection programs in an attempt to
5 33 improve collection rates in accordance with these goals.

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PATRICK J. MURPHY
Speaker of the House

JOHN P. KIBBIE
President of the Senate

6 10 I hereby certify that this bill originated in the House and
6 11 is known as House File 2669, Eighty=second General Assembly.

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MARK BRANDSGARD
Chief Clerk of the House

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6 17 Approved _____, 2008

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6 21 CHESTER J. CULVER
6 22 Governor

