

CHAPTER 383

SB 528-FN – FINAL VERSION

16Apr2008... 1284h

14May2008... 1522h

06/05/08 2142eba

2008 SESSION

08-2887

06/05

SENATE BILL ***528-FN***

AN ACT relative to a mercury-added thermostat collection program.

SPONSORS: Sen. Fuller Clark, Dist 24; Sen. Odell, Dist 8; Sen. Hassan, Dist 23; Rep. Owen, Merr 4; Rep. Kaelin, Hills 4; Rep. Wells, Rock 8

COMMITTEE: Energy, Environment and Economic Development

ANALYSIS

This bill establishes a mercury-added thermostat collection program.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eight

AN ACT relative to a mercury-added thermostat collection program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

383:1 New Section; Mercury-Added Thermostat Collection Program. Amend RSA 149-M by inserting after section 58 the following new section:

149-M:59 Mercury-Added Thermostat Collection Program.

I.(a) Each manufacturer of mercury-added thermostats sold in New Hampshire shall, individually or collectively, establish and maintain a department-approved collection and recycling program for out-of-service mercury-added thermostats from contractors, service technicians, and residents. For the purpose of this section, “manufacturer” means the holder of the brand name of the thermostat.

(b) Such program shall:

(1) Strive to maximize the capture and recycling rate of out-of-service mercury-added thermostats.

(2) Provide assistance and education to contractors, service technicians, residents, and municipalities to encourage the return of mercury-added thermostats to established recycling collection points.

(3) Ensure that the handling and recycling of mercury-added thermostats is performed in accordance with applicable laws.

(c) The program shall involve no direct cost to wholesalers, contractors, service technicians, or residents for participating in the program, except that wholesalers and contractors may be assessed a one-time administrative fee not to exceed \$25 for each authorized collection bin provided for their own use.

(d) Thermostat collection bins shall be provided to all wholesaler locations, and to all household hazardous waste, solid waste, and universal waste locations approved by the department for this purpose.

(e) The department may specify minimum safety training, operating conditions, and other requirements as needed to ensure the safe and efficient collection of mercury-added thermostats at household hazardous waste and universal waste facilities.

II. The program shall be operational 6 months after the effective date of this section.

III.(a) Each manufacturer, individually or as a group, shall propose to the department for review and approval the collection program required under paragraph I, no later than 3 months after the effective date of this section.

(1) The proposed program may be a new program or include appropriate enhancements to an existing program.

(2) The proposed program shall include an education and outreach component that identifies the mechanisms for providing the necessary information to contractors, service technicians, residents, retailers, and municipalities on an initial and ongoing basis, and identifies the appropriate persons

to develop and utilize such mechanisms. Such mechanisms may include, but shall not be limited to, public service announcements, written materials, signage, and visual aids.

(b) If the program proposal is approved, with or without conditions, the manufacturer shall implement the program by the date required in paragraph II.

(c) If the entire program is disapproved, the department shall inform the manufacturer of the reasons for the disapproval. The manufacturer shall have 30 days thereafter to submit a new program.

(d) If the new program is disapproved, the manufacturer shall be out of compliance for the purposes of paragraph IV beginning on the date the new program is disapproved by the department, if that date is later than the implementation date specified in paragraph II.

(e) The department shall take into account the experience of relevant thermostat collection programs in other states, and shall approve a proposed manufacturer collection program if it contains terms and conditions sufficient for the department to conclude that the proposed program represents the best available approach for improving mercury-added thermostat collection in this state.

(f) The department shall provide opportunities for stakeholders, including representatives from wholesalers, contractors, retailers, and environmental groups to provide input into the development and implementation of the collection program, including opportunities prior to the submission of the initial proposals.

IV. A manufacturer not in compliance with this section is prohibited from offering any thermostat for sale in this state.

V.(a) Effective 6 months after the effective date of this section, a wholesaler shall not sell a thermostat in the state unless the wholesaler acts as a collection site for thermostats that contain mercury. A wholesaler may meet the requirements of this paragraph by participating as a collection site in a manufacturer collection program described in paragraph I.

(b) A wholesaler shall distribute point-of-sale instructions, educational materials, and signage regarding the importance of recycling mercury-added thermostats.

(c) No wholesaler or retailer shall offer for sale in this state any thermostat of a manufacturer that is not in compliance with this section.

(d) A retailer may be required to facilitate the resident recycling program by:

(1) Distributing manufacturer provided, pre-paid mailing labels.

(2) Distributing manufacturer provided, educational materials.

(3) Posting signage regarding the importance of recycling mercury-added thermostats and the location of available collection locations for residents.

(e) The department shall set goals for the collection of thermostats within 4 months of the date of the first annual report of the manufacturer's program. In determining such goals, the department shall review and determine a percentage of thermostats, which may be more or less than the actual number reported in the annual program, to establish the next year's goal. The department may also

obtain input from interested stakeholders, including but not limited to, manufacturers, non-governmental entities, municipalities, and the recycling community.

(f) The department may alter any element of the previously developed manufacturer collection program, including but not limited to, the number and location of the collection points and the roles of thermostat manufacturers, wholesalers, retailers, service contractors, and municipal governments in the collection programs, provided such alterations are consistent with the requirements of this and other applicable laws.

VI.(a) Beginning July 1, 2008, the installation of mercury-added thermostats is prohibited.

(b) Beginning July 1, 2008, any mercury-added thermostat removed as a result of new construction, renovation, maintenance installation of a new heating or cooling system, or any similar activity shall be recycled or disposed of as hazardous waste. Any contractor or service technician performing such removal shall be responsible for removing the thermostat from the premises and properly recycling or disposing of the thermostat.

VII.(a) For each collection program established under this section, the manufacturer associated with that program shall submit an annual report to the department, by a date to be determined by the department, that includes at a minimum:

(1) The number of mercury-added thermostats collected and recycled by that manufacturer under this section during the previous year.

(2) The estimated total amount of mercury contained in the mercury components collected by that manufacturer under this section.

(3) An evaluation of the effectiveness of the manufacturer's collection and recycling program.

(4) An accounting of the administrative costs incurred in the course of administering the collection and recycling program developed under this section.

(b) The department shall publish information on its Internet website about the collection and recycling of mercury-added thermostats in the state. This information shall be updated annually and shall include an estimate of how many mercury-added thermostats go out of service in the state each year, a description of the collection programs established under this section, and data on collection rates.

(c) The department shall review the progress of each program and submit a report to the general court by November 1, 2010. The report shall include an assessment of whether the program goals are being met, an assessment of whether any further requirements for retailers, or discounts, savings coupons, or similar programs, should be implemented, and a proposal for any other adjustments that may be required to ensure that the thermostat recycling program is effective. Prior to submitting the report, the department shall consult with all relevant stakeholders and provide a public comment period.

383:2 Definitions. Amend RSA 149-M:51, IV-b and IV-c to read as follows:

IV-b. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches

actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. "Mercury switch" shall not include a ~~[mercury]~~ **mercury-added** thermostat.

IV-c. "~~[Mercury]~~ **Mercury-added** thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air-conditioning equipment.

383:3 Restrictions on the Sale of Certain Mercury-Added Products. Amend RSA 149-M:53, V(a) to read as follows:

V.(a) Beginning July 1, 2008, no person shall sell, offer for sale, or distribute a new manufactured mercury switch, mercury relay, or ~~[mercury]~~ **mercury-added** thermostat individually or as a product component. This prohibition does not apply if the switch, relay, or thermostat is used to replace a switch, relay, or thermostat that is a component in a larger product in use prior to July 1, 2008 provided that no compatible non-mercury replacement component exists.

383:4 Contingency. If HB 1635 of the 2008 regular legislative session becomes law, then RSA 149-M:59, as inserted by section 1 of this act, shall be renumbered to read as RSA 149-M:58-a.

383:5 Effective Date. This act shall take effect upon its passage.

Approved: July 11, 2008

Effective Date: July 11,2008