

1 Introduced by Committee on Fish, Wildlife and Water Resources

2 Date:

3 Subject: Conservation; wastewater management; mercury

4 Statement of purpose: This bill proposes to establish a comprehensive
5 program by which manufacturers of mercury-added thermostats will collect
6 mercury-added thermostats facing disposal. In addition, the bill would propose
7 to amend the prohibition on the sale of mercury-added products to apply to
8 products manufactured on or after July 1, 2007.

9 AN ACT RELATING TO THE COLLECTION AND DISPOSAL OF
10 MERCURY-ADDED THERMOSTATS

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. FINDINGS

13 The general assembly finds:

14 (1) According to a 2004 study by the U.S. Environmental Protection
15 Agency, titled “International Mercury Market Study and the Role and Impact
16 of U.S. Environmental Policy,” more than 10 percent of the estimated mercury
17 reservoir in the United States is in thermostats.

18 (2) In 2000, thermostat manufacturers General Electric, Honeywell, and
19 White Rodgers established the Thermostat Recycling Corporation (TRC) that
20 runs the program for collecting mercury-containing thermostat discarded in

1 Vermont. Under the TRC program, thermostat wholesalers volunteer to place
2 bins where heating, ventilation, and air-conditioning (HVAC) contractors can
3 discard thermostats.

4 (3) The manufacturers of mercury containing thermostats, with the
5 cooperation of the agency of natural resources, should be encourage to submit
6 a single unified plan for the collection of mercury-containing the thermostats,
7 the cost of which should be appropriately apportioned between participating
8 manufacturers.

9 Sec. 2. 10 V.S.A. § 7102 is amended to read:

10 § 7102. DEFINITIONS

11 As used in this chapter:

12 * * *

13 (6)(A) “Manufacturer” means any person, firm, association, partnership,
14 corporation, governmental entity, organization, combination, or joint venture
15 that (i) produces a mercury-added product, or (ii) serves as an importer or
16 domestic distributor of a mercury-added product produced outside the United
17 States.

18 (B) This definition shall not apply to retailers for whom importing is
19 not their primary business.

20 (C) In the case of a multi-component mercury-added product, the
21 manufacturer is the last manufacturer to produce or assemble the product.

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

3 Sec. 3. 10 V.S.A. § 7105(e)(1) is amended to read:

4 (1) Effective January 1, 2007, none of the following mercury-added
5 products may be offered for final sale, sold at a final sale, or distributed in
6 Vermont as a new manufactured product:

7 * * *

8 (J) A mercury-added neon type sign ~~or lamp~~.

9 Sec. 4. 10 V.S.A. § 7106 is amended to read:

10 § 7106. LABELING OF MERCURY-ADDED PRODUCTS

11 * * *

12 (i) The following alternative methods of labeling for specific products are
13 approved, and no further agency approval is required:

14 * * *

15 (3)(A)(i) Labeling of products that contain, as their only mercury-added
16 components, one or more lamps not intended to be replaceable by the user or
17 consumer that are used for one or more of the purposes enumerated in this
18 subdivision shall meet all the requirements of subsections (a) through (f) of
19 this section, except no label is required on the internal lamp, no label is
20 required on the package, and no label is required to be visible prior to
21 purchase. A label must be included in the care and use manual or ~~product~~

1 instructions, if any in the event that no care and use manual is produced for the
2 product, the product instructions.

3 (i) Lamp purposes subject to this subdivision shall be:

4 (I) backlighting;

5 (II) liquid crystal display (LCD) panel;

6 (III) scanning images; or

7 (IV) copying images.

8 (ii) This subdivision (A) shall apply to products containing lamps
9 used for other purposes, if those products are approved under subsection (h) of
10 this section, except that there need not be compliance in this instance with the
11 requirement established in subdivision (h)(1)(A)(ii), regarding the
12 effectiveness of the proposed alternative.

13 (B) Labeling of products with a screen or LCD panel less than seven
14 inches on the diagonal that contain, as their only mercury-added components,
15 one or more lamps not intended to be replaceable by the user or consumer that
16 are used for backlighting shall meet all the requirements of subsections (a)
17 through (c) of this section by placing the label on the product or in the care and
18 use manual or product instructions, if any in the event that no care and use
19 manual is produced for the product, the product instructions. No label is
20 required on the internal lamp, and no label shall be required to be visible prior
21 to purchase.

1 (C) Labeling of a product that contains as its only mercury-added
2 components a lamp or lamps at least one of which is intended to be replaceable
3 by the user or consumer must meet the labeling requirements of subsections (a)
4 through (f) of this section, except no label is required to be visible prior to
5 purchase. A label must also be included in the care and use manual or ~~product~~
6 instructions, if any in the event that no care and use manual is produced for the
7 product, the product instructions. If the replaceable lamp is placed within a
8 housing intended to be replaceable by the user or consumer, the housing must
9 also be labeled.

10 * * *

11 Sec. 5. 10 V.S.A. § 7107 is amended to read:

12 § 7107. DISCARDED MERCURY-ADDED PRODUCTS

13 (a) Management of discarded mercury-added products. After July 1, 2007,
14 discarded mercury-added products, except for mercury-added button cell
15 batteries, products containing mercury-added button cell batteries as their only
16 mercury-added components, and photographic film shall be managed as
17 provided in this section.

18 (1) Disposal ban. No person shall knowingly dispose of mercury-added
19 products in a solid waste landfill or combustor.

20 (2) Source separation. Except as otherwise provided by this section,
21 every person who discards solid waste shall separate mercury-added products

1 from that solid waste for management as hazardous waste or universal
2 hazardous waste, according to all applicable state and federal regulations. Any
3 contractor who replaces or removes mercury-added products shall assure that
4 any discarded mercury-added product is subject to proper separation and
5 management as a hazardous waste or universal hazardous waste. Any
6 contractor who replaces a mercury-containing thermostat from a building shall
7 deliver the mercury-containing thermostat to an appropriate collection location
8 for recycling.

9 * * *

10 (d) Removal of mercury-added components. The agency shall conduct a
11 study and make recommendations for requirements to remove effectively and
12 feasibly mercury-added components in products prior to disposal or recycling
13 processes. This report shall identify removal and collection systems at public
14 and private solid waste management facilities and salvage businesses,
15 manufacturer-sponsored or operated collection and take-back programs; and
16 other feasible programs. The agency will identify costs mechanisms for
17 financing such programs. The study shall address removal and collection of
18 mercury-added components in automobiles and the collection of switches,
19 relays, and gauges in home appliances, heating devices, and other equipment.
20 The agency shall report to the general assembly no later than January 15, 2006.
21 ~~The agency shall conduct a study, and in consultation with the advisory~~

1 ~~committee on mercury pollution, make recommendations on methods to~~
2 ~~increase recycling of mercury thermostats. The study shall identify incentive-~~
3 ~~based programs and other feasible programs, including costs and mechanisms~~
4 ~~for financing such programs. The agency shall report to the general assembly~~
5 ~~no later than January 15, 2008.~~

6 * * *

7 Sec. 6. 10 V.S.A. § 7116 is added to read:

8 § 7116. MERCURY-CONTAINING THERMOSTATS

9 (a) Manufacturer responsibility. Each thermostat manufacturer that has
10 offered for final sale, sold at final sale, or has distributed mercury containing
11 thermostats in Vermont shall, individually or collectively:

12 (1) Not later than October 1, 2007 submit a plan to the agency for
13 approval that describes a collection and financial incentive program for
14 mercury thermostats. The program contained in this plan shall ensure that the
15 following take place:

16 (A) that at least 70 percent of the manufacturer's mercury-containing
17 thermostats estimated by the agency to be discarded within two years after the
18 implementation of approved plans are collected and recycled and at least 80
19 percent of the manufacturer's mercury-containing thermostats estimated by the
20 agency to be discarded within three years are collected and recycled after the
21 implementation of the manufacturer's approved plan.

1 (B) that an education and outreach program consistent with the
2 requirements of other states is developed. The program shall be directed
3 toward wholesalers, retailers, contractors, and homeowners and shall be
4 designed to ensure achievement of the rate of collection of mercury-containing
5 thermostats established by subdivision (1)(A) of this subsection. There shall
6 be no cost to thermostat wholesalers or thermostat retailers for education and
7 outreach materials.

8 (C) that handling and recycling of mercury-containing thermostats
9 are accomplished in a manner that is consistent with the provisions of the
10 universal waste rules adopted by the secretary.

11 (D) that containers for mercury-containing thermostat collection are
12 provided to all thermostat wholesalers. The cost to thermostat wholesalers
13 shall be limited to an initial, reasonable one-time fee per container as specified
14 in the plan.

15 (E) that collection systems are provided to all collection points
16 registered pursuant to subdivision (d)(3) of this section. Collection systems
17 can include individual product mail back or multiple collection containers.
18 The cost to registered collection points shall be limited to an initial, reasonable
19 one-time fee per container as specified in the plan.

20 (F) that a financial incentive is established with a minimum value of
21 \$5.00 for the return of each mercury-containing thermostat to a thermostat

1 wholesaler by a contractor or service technician. The financial incentive shall
2 be in the form of cash or coupons that are redeemable by the contractor or
3 service technician.

4 (G) that a financial incentive is established with a minimum value of
5 \$5.00 to homeowners or non-professionals for the return of each
6 mercury-containing thermostat to a collection point registered with the agency.
7 The financial incentive may include, cash, discounts, coupons, or other
8 incentives.

9 (H) mechanisms to protect against the fraudulent return of
10 thermostats are established.

11 (2) No later than April 1, 2008, implement a mercury thermostat
12 collection plan approved by the secretary under subsection (d)(1) of this
13 section.

14 (3) Beginning in 2009, submit an annual report to the secretary by April
15 1 of each year that includes, at a minimum, all of the following:

16 (A) The number of mercury-containing thermostats collected and
17 recycled by that manufacturer pursuant to this section during the previous
18 calendar year.

19 (B) The estimated total amount of mercury contained in the
20 thermostat components collected by that manufacturer pursuant to this section.

1 (C) An evaluation of the effectiveness of the manufacturer's
2 collection program and the financial incentive.

3 (D) An accounting of the administrative costs incurred in the course
4 of administering the collection and recycling program and the financial
5 incentive plan.

6 (b) Thermostat wholesaler and thermostat retailer responsibilities.

7 (1) By April 1, 2008, a thermostat wholesaler shall not offer for final
8 sale, sell at final sale, or distribute thermostats unless the wholesaler:

9 (A) acts as a collection site for thermostats that contain mercury.

10 (B) promotes and utilizes the collection containers provided by
11 thermostat manufacturers to facilitate a contractor collection program as
12 established by subsection (a) of this section, and all other tasks as needed to
13 establish and maintain a cost-effective manufacturer collection and financial
14 incentive program.

15 (2) By April 1, 2008, a thermostat retailer shall not offer for final sale,
16 sell, or distribute thermostats in the state unless the thermostat retailer
17 participates in an education and outreach program to educate consumers on the
18 collection program for mercury thermostats.

19 (c) Sales prohibition. Beginning April 1, 2008 the following sales
20 prohibitions shall apply to manufacturers, thermostat wholesalers, and
21 thermostat retailers:

1 (1) A manufacturer not in compliance with this section is prohibited
2 from offering any thermostat for final sale in the state, selling any thermostat at
3 final sale in the state, or distributing any thermostat in the state. A
4 manufacturer not in compliance with this section shall provide the necessary
5 support to thermostat wholesalers and thermostat retailers to ensure the
6 manufacturer’s thermostats are not offered for final sale, sold at final sale, or
7 distributed in this state.

8 (2) A thermostat wholesaler or thermostat retailer shall not offer for
9 final sale, sell at final sale, or distribute in this state any thermostat of a
10 manufacturer that is not in compliance with this section.

11 (d) Agency responsibilities.

12 (1) Within 60 days of receipt of a complete application from a
13 manufacturer, the agency shall review and may grant, deny, or approve with
14 modifications a manufacturer plan required by subdivision (a)(1) of this
15 section. The agency shall not approve a plan unless all elements of subdivision
16 (a)(1) are adequately addressed, and the program outlined in the plan will
17 assure a maximum rate of collection of mercury-containing thermostats as
18 established in subdivision (a)(1)(A) of this section. In reviewing a plan, the
19 agency may consider consistency of the plan with collection and financial
20 incentive requirements in other states and consider consistency between
21 manufacturer collection programs. In reviewing plans, the agency shall ensure

1 that education and outreach programs are uniform and consistent to ensure ease
2 of implementation by thermostat wholesalers and thermostat retailers.

3 (2) The agency shall establish a process under which a plan submitted
4 by a manufacturer is, prior to plan approval, available for public review and
5 comment for 30 days. The agency shall consult with interested persons,
6 including representatives from thermostat manufacturers, environmental
7 groups, thermostat wholesalers, thermostat retailers, service contractors,
8 municipalities, and solid waste districts.

9 (3) Registered collection points. The agency shall maintain and post on
10 the agency of natural resources' website a list of municipalities, solid waste
11 districts, and thermostat retailers who wish to register as collection points for
12 mercury thermostats.

13 (4) Report. By January 15, 2009, and annually thereafter, the agency
14 shall submit a report on the collection and recycling of mercury-containing
15 thermostats in the state to the house committee on fish, wildlife and water
16 resources and the senate committee on natural resources and energy. The
17 report due in 2009 must include a description and discussion of the financial
18 incentive plan established under this section and recommendations for any
19 statutory changes concerning the collection and recycling of
20 mercury-containing thermostats. Subsequent reports must include an
21 evaluation of the effectiveness of the thermostat collection and recycling

1 programs established under this section, information on actual collection rates,
2 and recommendations for any statutory changes concerning the collection and
3 recycling of mercury-containing thermostats. These reporting requirements
4 may be combined with other reports on mercury that the agency is required to
5 provide to the general assembly.

6 (e) Maximum rate of collection. By January 1, 2008, the agency shall
7 estimate the number of out-of-service thermostats generated in Vermont on an
8 annual basis, in consultation with interested persons, including representatives
9 from thermostat manufacturers, thermostat wholesalers, thermostat retailers,
10 service contractors, environmental groups, municipalities, and solid waste
11 districts. Should collection efforts fail to meet the maximum rate of collection,
12 the agency shall, in consultation with interested persons, require modifications
13 to the collection plan in an attempt to improve collection rates in accordance
14 with these goals.

15 Sec. 7. ELECTRONICS LABELING

16 (a) Notwithstanding the labeling requirements contained in subsection
17 7106(a) of title 10, the following products shall not be offered for final sale,
18 sold at a final sale, or distributed in Vermont on or after October 1, 2007 unless
19 both the product and its packaging are labeled in accordance with section 7106
20 of Title 10:

1 (1) A product that was manufactured on or after October 1, 2007 with a
2 screen or an LCD panel more than seven inches on the diagonal that contains,
3 as its only mercury-added component, one or more lamps not intended to be
4 replaceable by the user or consumer; or

5 (2) A product that was manufactured on or after October 1, 2007 that
6 contains, as its only mercury-added component, a replaceable lamp that is
7 placed within a housing intended to be replaceable by the user or consumer
8 used in a projection system or projection television.

9 (b) The requirement of subsection (a) of this section may also be met by
10 compliance with the terms of any approved alternative labeling method granted
11 under subsections 7106(h) or (i) of Title 10.

12 (c) A retailer may not be found in violation of this subsection if the retailer
13 lacked knowledge that the product contained mercury.

14 Sec. 8. SUNSET

15 (a) Sec. 7 (electronic labeling extension) shall be repealed on July 1, 2008.

16 (b) Subdivisions 7116(a)(3) (reporting requirement for manufacturers of
17 mercury-containing thermostats) and (d)(4) (agency of natural resources
18 reporting requirement regarding mercury-containing thermostats) of Title 10
19 shall be repealed on April 2, 2014.

