

HOUSE No. 4380

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

By striking out all after the enacting clause and inserting in place thereof the following:

- 1 SECTION 1. Chapter 21H of the General Laws is hereby amended by inserting after section 6J
2 the following section:-
- 3 Section 6J1/2. (a) As used in this section, the following words shall, unless the context clearly
4 requires otherwise, have the following meanings:-
- 5 “Contractor”, a person engaged in the business of installation, service, or removal of heating,
6 ventilation, and air-conditioning components.
- 7 "Department", the department of environmental protection.
- 8 “Local government authority”, a household hazardous waste facility, a solid waste management
9 agency, an environmental management agency, or a department of public health.
- 10 "Manufacturer", an organization or entity that sells or sold a mercury-added thermostat under a
11 brand or label it owns or is or was licensed to use a brand or label for a mercury-added
12 thermostat produced by other suppliers.

13 "Mercury-added thermostat", a product or device that uses a mercury switch to sense and control
14 room temperature through communication with heating, ventilating, or air-conditioning
15 equipment, including thermostats used to sense and control room temperature in residential,
16 commercial, industrial, and other buildings, but excluding thermostats used to sense and control
17 temperature as part of a manufacturing process.

18 "Person", an individual, trust, firm, joint stock company, corporation, including a government
19 corporation, partnership, association, the federal government or any agency or subdivision
20 thereof, a state, municipality, commission, political subdivision of a state, or any interstate body.

21 "Qualified contractor", a person engaged in the business of installation, service, or removal of
22 heating, ventilation, and air-conditioning components who employs 7 or more service
23 technicians or installers, or who is located in an area outside of an urban area, as defined by the
24 United States bureau of the census.

25 "Thermostat retailer", a person that sells thermostats of any kind directly to homeowners, other
26 non-professionals or contractors through any selling or distribution mechanism, including, but
27 not limited to, sales using the internet or catalogs.

28 "Thermostat wholesaler", a person engaged in the distribution and wholesale sale of thermostats
29 and other heating, ventilation, and air-conditioning components to contractors who install
30 heating, ventilation, and air-conditioning components.

31 (b) (1) A thermostat wholesaler or contractor shall not offer for final sale, sell at final sale or
32 distribute any thermostat unless said thermostat wholesaler or contractor acts as a collection site
33 for mercury-added thermostats.

34 (2) A thermostat wholesaler or qualified contractor shall meet the requirements of this section by
35 participating as a collection site in a collection program as described in subsection (d), or by
36 collecting mercury-added thermostats and managing the collected mercury-added thermostats in
37 accordance with applicable federal and state laws governing the disposal of universal waste.

38 (3) A thermostat wholesaler or thermostat retailer acting as a collection site shall provide visible
39 signage identifying the location as a collection location for waste mercury thermostats.

40 (4) A thermostat wholesaler or thermostat retailer shall not offer for final sale, sell at a final sale,
41 or distribute any thermostat of a manufacturer that is not in compliance with the provisions of
42 this section.

43 (c) (1) Except as otherwise provided for in this section, no person shall dispose of a mercury-
44 added thermostat in a manner other than by recycling or disposal as hazardous waste.

45 (2) Any contractor that removes a mercury-added thermostat from a building shall deliver said
46 thermostat to a collection site established pursuant to paragraph (d) of this section for recycling.

47 (3) A person who demolishes a building shall remove any mercury-added thermostat from the
48 building prior to demolition and shall deliver any removed thermostat to a collection site
49 established pursuant to subsection (d) for recycling, or by collecting mercury-added thermostats
50 and managing the collected mercury-added thermostats in accordance with applicable federal
51 and state laws governing the disposal of universal waste.

52 (4) Any person who removes a mercury-added thermostat from a location that is participating in
53 an energy efficiency or weatherization program supported or administered in whole or in part by
54 any department, agency, authority, or political subdivision of the commonwealth, or conducted

55 as a result of any statutory requirement, including, but not limited to, demand-side management
56 or least-cost procurement shall deliver said thermostat to a collection site established pursuant to
57 subsection (d) for recycling.

58 (5) No municipal or private solid waste hauler or operator of a solid waste facility shall
59 knowingly dispose, or allow to be disposed, a mercury-added thermostat as solid waste unless
60 the mercury has been first removed by recycling, or disposed as hazardous waste. A solid waste
61 facility may knowingly accept or collect mercury-added thermostats for proper disposal if the
62 device is segregated from solid waste and stored in an identified recycling container provided
63 that the facility participates in a manufacturer's program as a collection site or has established a
64 collection site to collect, manage and dispose of mercury-added thermostats as hazardous waste
65 in accordance with applicable federal and state waste disposal laws and regulations.

66 (d) Each thermostat manufacturer that has distributed, offered for final sale or sold at final sale
67 any mercury-added thermostat within the commonwealth shall, individually or collectively:

68 (1) make collection containers available to each thermostat wholesaler, thermostat retailer,
69 qualified contractor and local government authority within the commonwealth that requests a
70 container, ensuring that such containers are accompanied by information regarding the proper
71 management of mercury-added thermostats as universal waste, in accordance with the collection
72 program and the department's rules and regulations;

73 (2) establish a system to collect, transport and properly manage out-of-service mercury-added
74 thermostats from all collection sites established under the provisions of this section; and

75 (3) collect no fees or other charges for participation in the program, except that each thermostat
76 wholesaler, thermostat retailer, qualified contractor, and local government authority that is

77 provided with 1 or more collection containers may be charged a one-time program
78 administration fee not to exceed 25 dollars per collection container.

79 (e) On or before March 1, each thermostat manufacturer that has distributed, offered for final
80 sale or sold at final sale any mercury-added thermostat within the commonwealth shall,
81 individually or collectively submit an annual report to the department that shall include, but not
82 be limited to, the following information:

83 (1) the number of mercury-added thermostats collected and recycled by the manufacturer
84 pursuant to this section during the previous calendar year;

85 (2) the estimated total amount of mercury contained in the thermostat components collected by
86 the manufacturer pursuant to this section in the previous calendar year;

87 (3) an evaluation of the effectiveness of the manufacturer's collection program;

88 (4) an accounting of the administrative costs incurred in the course of administering the
89 collection and recycling program; and

90 (5) a list of all locations to which collection containers have been provided, including any
91 locations which received containers during the year, and the date on which each location
92 received a collection container.

93 (f) The department shall maintain and post on its website a list of all locations that are collection
94 points for mercury-added thermostats.

95 In conjunction with any education and outreach programs implemented by manufacturers, the
96 department may conduct an education and outreach program directed toward thermostat

97 wholesalers, thermostat retailers, contractors and homeowners to promote the collection of out-
98 of-service mercury-added thermostats.

99 (g) The department shall collect and maintain data on the collection and recycling programs
100 established in subsection (d) of this section, including the number of mercury-added thermostats
101 collected and recycled, and the number of wholesalers, retailers, qualified contractors, and local
102 government authorities participating in the program. On or before July 1 of each year, the
103 department shall prepare an annual report detailing the data collected under this subsection
104 during the prior calendar year and shall file copies of said reports with the clerks of the senate
105 and house of representatives and the co-chairs of the joint committee on environment, natural
106 resources and agriculture.

107 SECTION 3. For the period commencing January 1, 2013 through December 31, 2016, each
108 thermostat manufacturer that has distributed, offered for final sale or sold at final sale any
109 mercury-added thermostat within the commonwealth shall, individually or collectively conduct
110 education and outreach efforts including, but not limited to: (i) promoting the availability of
111 collection containers to thermostat wholesalers, thermostat retailers, qualified contractors,
112 contractors and units of local government in the commonwealth; (ii) educating contractors,
113 homeowners and other interested persons of the importance of properly managing out-of-service
114 mercury-added thermostats and opportunities for the collection of said thermostats and the
115 availability of manufacturer supported programs; (iii) providing signage to participating
116 collection locations that can be prominently displayed to promote the collection and recycling of
117 out-of-service mercury-added thermostats; and (iv) providing written materials or templates of
118 written materials for reproduction by participating thermostat wholesalers and thermostat
119 retailers to be provided to customers at the time of purchase or delivery of a thermostat. These

120 materials shall include, but not be limited to, information on the importance of properly
121 managing out-of-service mercury-added thermostats and opportunities for the collection of said
122 thermostats. Each annual report required by subsection (e) of section 6J1/2 of chapter 21H of the
123 General Laws shall include a description of the education and outreach efforts conducted
124 pursuant to this section.

125 SECTION 4. Upon the completion of the first calendar year of the collection and recycling
126 program established by section 6J ½ of chapter 21H of the General Laws, the department of
127 environmental protection shall conduct an assessment and evaluation of said program, including
128 the number of thermostats collected and proposed measures to increase that number in future
129 years, and shall, on or before September 30, 2014, file a report of its findings, including any
130 recommendations of legislation, with the clerks of the senate and house of representatives and
131 the co-chairs of the joint committee on environment, natural resources and agriculture.

132 SECTION 5. Subsection (e) and subsection (g) of section 6J1/2 of chapter 21H of the General
133 Laws, as appearing in section 1, shall take effect on January 1, 2014.

134 SECTION 6. Subsection (f) of section 6J1/2 of chapter 21H of the General Laws, as appearing
135 in section 1, shall take effect on July 1, 2014.

136 SECTION 2. Section 6J1/2 of said chapter 21H, inserted by section 1, is hereby repealed.

137 SECTION 7. Section 2 of this act shall take effect on December 31, 2020.