SENATE DOCKET, NO. 792 FILED ON: 1/17/2013

SENATE . . . . . No. 388

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act prohibiting the sale, installation and disposal of mercury thermostats.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Marc R. Pacheco	*First Plymouth and Bristol*
Kay Khan	*11th Middlesex*
Michael J. Rodrigues	*First Bristol and Plymouth*

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SENATE . . . . . No. 388

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 388) of Marc R. Pacheco, Kay Khan and Michael J. Rodrigues for legislation to prohibit the sale, installation and disposal of mercury thermostats. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *4380* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act prohibiting the sale, installation and disposal of mercury thermostats.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 21H of the General Laws is hereby amended by inserting after section 6J the following section:-

Section 6J1/2. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Contractor”, a person engaged in the business of installation, service or removal of heating, ventilation and air-conditioning components.

"Department", the department of environmental protection.

“Local government authority”, a household hazardous waste facility, a solid waste management agency, an environmental management agency or a department of public health.

"Manufacturer", an organization or entity that sells or sold a mercury-added thermostat under a brand or label it owns or is or was licensed to use a brand or label for a mercury-added thermostat produced by other suppliers.

"Mercury-added thermostat”, a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning 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
19 government corporation, partnership, association, the federal government or any agency or
20 subdivision thereof, a state, municipality, commission, political subdivision of a state or any
21 interstate body.

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

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

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

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

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

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

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

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

47 (2) A contractor that removes a mercury-added thermostat from a building shall deliver
48 that thermostat to a collection site established under subsection (d) for recycling.

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

54 (4) A person who removes a mercury-added thermostat from a location that is
55 participating in an energy efficiency or weatherization program supported or administered in
56 whole or in part by a department, agency, authority or political subdivision of the commonwealth
57 or conducted as a result of any statutory requirement, including, but not limited to, demand-side
58 management or least-cost procurement, shall deliver that thermostat to a collection site
59 established under subsection (d) for recycling.

60 (5) No municipal or private solid waste hauler or operator of a solid waste disposal
61 facility shall knowingly dispose, or allow to be disposed, a mercury-added thermostat as solid
62 waste unless the mercury has been first removed by recycling or disposed as hazardous waste. A
63 solid waste facility may knowingly accept or collect mercury-added thermostats for proper
64 disposal if the device is segregated from solid waste and stored in an identified recycling
65 container; provided, that the facility participates in a manufacturer's program as a collection site
66 or has established a collection site to collect, manage and dispose of mercury-added thermostats
67 as hazardous waste in accordance with applicable federal and state waste disposal laws and
68 regulations. No operator of a solid waste disposal facility shall be found to be in violation of this
69 section if the operator: (i) makes a good-faith and consistent effort to comply with this section;
70 (ii) posts, in a conspicuous location at the facility, a sign stating that mercury-added thermostats
71 are not accepted at the facility; and (iii) notifies, in writing, any person authorized to deposit
72 solid waste at the facility that mercury-added thermostats are not accepted at the facility.

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

76 (i) make collection containers available to each thermostat wholesaler, thermostat retailer,
77 qualified contractor and local government authority within the commonwealth that requests a
78 container, ensuring that those containers are accompanied by information regarding the proper
79 management of mercury-added thermostats as universal waste, in accordance with the collection
80 program and the department's rules and regulations;

81 (ii) establish a system to collect, transport and properly manage, which may include but
82 shall not be limited to recycling, out-of-service mercury-added thermostats from all collection
83 sites established under this section; and

84 (iii) collect no fees or other charges for participation in the program, except that each
85 thermostat wholesaler, thermostat retailer, qualified contractor and local government authority

86 that is provided with 1 or more collection containers may be charged a 1-time program
87 administration fee not to exceed $25 per collection container.

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

92 (i) the number of mercury-added thermostats collected and recycled by the manufacturer
93 under this section during the previous calendar year;

94 (ii) the estimated total amount of mercury contained in the thermostat components
95 collected by the manufacturer under this section in the previous calendar year;

96 (iii) an evaluation of the effectiveness of the manufacturer's collection program;

97 (iv) an accounting of the administrative costs incurred in the course of administering the
98 collection and recycling program; and

99 (v) a list of all locations to which collection containers have been provided, including any
100 locations which received containers during the year, and the date on which each location
101 received a collection container.

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

104 In conjunction with any education and outreach programs implemented by
105 manufacturers, the department may conduct an education and outreach program directed toward
106 thermostat wholesalers, thermostat retailers, contractors and homeowners to promote the
107 collection of out-of-service mercury-added thermostats.

108 (g) The department shall collect and maintain data on the collection and recycling
109 programs established in subsection (d), including the number of mercury-added thermostats
110 collected and recycled and the number of wholesalers, retailers, qualified contractors and local
111 government authorities participating in the program. On or before September 30 of each year,
112 the department shall prepare an annual report detailing the data collected under this subsection
113 during the prior calendar year and shall file copies of those reports with the clerks of the senate
114 and house of representatives and the co-chairs of the joint committee on environment, natural
115 resources and agriculture.

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

117 SECTION 3. For the period beginning on January 1, 2015 through December 31, 2018,
118 each thermostat manufacturer that has distributed, offered for final sale or sold at final sale any
119 mercury-added thermostat within the commonwealth shall, individually or collectively conduct

120 education and outreach efforts including, but not limited to: (i) promoting the availability of
121 collection containers to thermostat wholesalers, thermostat retailers, qualified contractors and
122 units of local government in the commonwealth; (ii) educating contractors, homeowners and
123 other interested persons of the importance of properly managing out-of-service mercury-added
124 thermostats and opportunities for the collection of those thermostats and the availability of
125 manufacturer supported programs; (iii) providing signage to participating collection locations
126 that can be prominently displayed to promote the collection and recycling of out-of-service
127 mercury-added thermostats; and (iv) providing written materials or templates of written materials
128 for reproduction by participating thermostat wholesalers and thermostat retailers to be provided
129 to customers at the time of purchase or delivery of a thermostat. These materials shall include,
130 but not be limited to, information on the importance of properly managing out-of-service
131 mercury-added thermostats and opportunities for the collection of those thermostats. Each
132 annual report required by subsection (e) of section 6J1/2 of chapter 21H of the General Laws
133 shall include a description of the education and outreach efforts conducted under this section.

134 SECTION 4. Upon the completion of the first calendar year of the collection and
135 recycling program established by section 6J ½ of chapter 21H of the General Laws, the
136 department of environmental protection shall conduct an assessment and evaluation of that
137 program, including the number of thermostats collected and proposed measures to increase that
138 number in future years. The department of environmental protection shall, on or before
139 December 31, 2016, file a report of its findings, including any recommendations of legislation,
140 with the clerks of the senate and house of representatives and the co-chairs of the joint committee
141 on environment, natural resources and agriculture.

142 SECTION 5. Subsections (e) and (g) of section 6J1/2 of chapter 21H of the General
143 Laws, inserted by section 1, shall take effect on January 1, 2016.

144 SECTION 6. Subsection (f) of section 6J1/2 of chapter 21H of the General Laws, as so
145 inserted, shall take effect on July 1, 2016.

146 SECTION 7. Section 2 of this act shall take effect on December 31, 2022.