

House File 2329 - Introduced

HOUSE FILE _____
BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HF 751)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the collection and recycling of mercury=added
2 thermostats.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6516HV 82
5 tw/nh/24

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1 1 Section 1. NEW SECTION. 455D.31 MERCURY == THERMOSTATS.
1 2 1. As used in this section, unless the context otherwise
1 3 requires:
1 4 a. "Manufacturer" means any person, firm, association,
1 5 partnership, corporation, governmental entity, organization,
1 6 combination, or joint venture that owns or owned the brand
1 7 name of the thermostat.
1 8 b. "Mercury=added thermostat" means a product or device
1 9 that uses a mercury switch to sense and control room
1 10 temperature through communication with heating, ventilating,
1 11 or air=conditioning equipment. "Mercury=added thermostat"
1 12 includes thermostats used to sense and control room
1 13 temperature in residential, commercial, industrial, and other
1 14 buildings but does not include thermostats used to sense and
1 15 control temperature as part of a manufacturing process.
1 16 c. "Thermostat retailer" means a person who sells
1 17 thermostats of any kind directly to homeowners or other
1 18 nonprofessionals through any selling or distribution
1 19 mechanism, including but not limited to sales using the
1 20 internet or catalogues. A thermostat retailer may also be a
1 21 thermostat wholesaler if it meets the definition of thermostat
1 22 wholesaler.
1 23 d. "Thermostat wholesaler" means a person who is engaged
1 24 in the distribution and wholesale selling of large quantities
1 25 of heating, ventilation, and air=conditioning components,
1 26 including thermostats, to contractors who install heating,
1 27 ventilation, and air=conditioning components, including
1 28 thermostats.
1 29 2. Beginning July 1, 2009, a person shall not sell, offer
1 30 for sale, or install a mercury=added thermostat in this state.
1 31 3. Beginning April 1, 2009, except as otherwise provided,
1 32 a person who generates a discarded mercury=added thermostat
1 33 shall manage the mercury=added thermostat as a hazardous waste
1 34 or universal hazardous waste, according to all applicable
1 35 state and federal regulations. A contractor who replaces or
2 1 removes mercury=added thermostats shall assure that any
2 2 discarded mercury=added thermostat is subject to proper
2 3 separation and management as hazardous waste or universal
2 4 hazardous waste. A contractor who replaces a mercury=added
2 5 thermostat in a residence shall deliver the mercury=added
2 6 thermostat to an appropriate collection location for
2 7 recycling.
2 8 4. Each thermostat manufacturer that has offered for final
2 9 sale, sold at final sale, or distributed mercury=added
2 10 thermostats in the state shall individually, or in conjunction
2 11 with other thermostat manufacturers, do all of the following:
2 12 a. Not later than October 1, 2008, submit a plan to the
2 13 department for approval describing a collection program for
2 14 mercury=added thermostats. The program contained in the plan
2 15 shall ensure that all the following take place:
2 16 (1) That an education and outreach program is developed.
2 17 The program shall be directed toward thermostat wholesalers,
2 18 thermostat retailers, contractors, and homeowners and ensure a

2 19 maximum rate of collection of mercury=added thermostats.
2 20 There shall not be a cost to thermostat wholesalers or
2 21 thermostat retailers for education and outreach materials.
2 22 (2) That handling and recycling of mercury=added
2 23 thermostats are accomplished in a manner that is consistent
2 24 with the provisions of the universal waste rules.
2 25 (3) That containers for mercury=added thermostat
2 26 collection are provided to all thermostat wholesalers. The
2 27 cost to thermostat wholesalers for such containers shall be
2 28 limited to an initial, reasonable, one=time fee per container
2 29 as specified in the plan.
2 30 (4) That collection points will be established to serve
2 31 homeowners. The collection points shall include but are not
2 32 limited to regional collection centers permitted under 567 IAC
2 33 123. Collection points may include but are not limited to
2 34 thermostat retailers.
2 35 (5) That collection systems are provided to all collection
3 1 points. Collection systems may include individual product
3 2 mail back or multiple collection containers. The costs of
3 3 collection shall not be passed on to a collection point. The
3 4 costs to a collection point shall be limited to an initial,
3 5 reasonable, one=time fee per container as specified in the
3 6 plan.
3 7 b. Not later than April 1, 2009, implement a mercury=added
3 8 thermostat collection plan approved by the department.
3 9 c. Beginning in 2010, submit an annual report to the
3 10 department by April 1 of each year that includes, at a
3 11 minimum, all of the following:
3 12 (1) The number of mercury=added thermostats collected and
3 13 recycled by that manufacturer during the previous calendar
3 14 year.
3 15 (2) The estimated total amount of mercury contained in the
3 16 thermostat components collected by that manufacturer during
3 17 the previous calendar year.
3 18 (3) A list of all participating thermostat wholesalers and
3 19 all collection points for homeowners.
3 20 (4) An evaluation of the effectiveness of the
3 21 manufacturer's collection program.
3 22 (5) An accounting of the administrative costs incurred in
3 23 the course of administering the collection and recycling
3 24 program.
3 25 5. a. By April 1, 2009, a thermostat wholesaler shall do
3 26 both of the following:
3 27 (1) Act as a collection site for mercury=added
3 28 thermostats.
3 29 (2) Promote and utilize the collection containers provided
3 30 by thermostat manufacturers to facilitate a contractor
3 31 collection program.
3 32 b. By April 1, 2009, a thermostat retailer shall
3 33 participate in an education and outreach program to educate
3 34 consumers on the collection program for mercury=added
3 35 thermostats.
4 1 6. Beginning April 1, 2009, all of the following sales
4 2 prohibitions shall apply to thermostat manufacturers,
4 3 thermostat wholesalers, and thermostat retailers:
4 4 a. A thermostat manufacturer not in compliance with this
4 5 section is prohibited from offering any thermostat for final
4 6 sale in the state. A thermostat manufacturer not in
4 7 compliance with this section shall provide the necessary
4 8 support to thermostat wholesalers and thermostat retailers to
4 9 ensure the manufacturer's thermostats are not offered for
4 10 final sale.
4 11 b. A thermostat wholesaler or thermostat retailer shall
4 12 not offer for final sale any thermostat of a manufacturer that
4 13 is not in compliance with this section.
4 14 7. The department shall do all of the following:
4 15 a. Review and grant approval of, deny, or approve with
4 16 modifications a manufacturer plan required under this section.
4 17 The department shall not approve a plan unless all elements of
4 18 subsection 4, paragraph "a", are adequately addressed and the
4 19 program outlined in the plan will assure a maximum rate of
4 20 collection of mercury=added thermostats. In reviewing a plan
4 21 the department may consider consistency of the plan with
4 22 collection requirements in other states and consider
4 23 consistency between thermostat manufacturer collection
4 24 programs. In reviewing plans, the agency shall ensure that
4 25 education and outreach programs are uniform and consistent to
4 26 ensure ease of implementation by thermostat wholesalers and
4 27 thermostat retailers.
4 28 b. The department shall establish a process for public
4 29 review and comment on all plans submitted by thermostat

4 30 manufacturers prior to plan approval. The department shall
4 31 consult with interested persons, including representatives of
4 32 thermostat manufacturers, environmental groups, thermostat
4 33 wholesalers, thermostat retailers, contractors, and local
4 34 government.

4 35 c. By January 15, 2010, and annually thereafter, the
5 1 department shall submit a written report to the general
5 2 assembly regarding the collection and recycling of
5 3 mercury-added thermostats in the state. The first report
5 4 submitted shall include recommendations for any statutory
5 5 changes concerning the collection and recycling of
5 6 mercury-added thermostats. Subsequent reports shall include
5 7 an evaluation of the effectiveness of the mercury-added
5 8 thermostat collection and recycling programs, information on
5 9 actual collection rates, and recommendations for any statutory
5 10 changes concerning the collection and recycling of
5 11 mercury-added thermostats.

5 12 8. The goal of the collection and recycling efforts under
5 13 this section is to collect and recycle at least seventy
5 14 percent of the mercury-added thermostats estimated by the
5 15 department to be discarded within two years after the
5 16 implementation of approved plans and at least eighty percent
5 17 of the mercury-added thermostats estimated by the department
5 18 to be discarded within three years after the implementation of
5 19 approved plans. By January 1, 2009, the department shall
5 20 estimate the number of mercury-added thermostats generated in
5 21 the state on an annual basis, in consultation with interested
5 22 persons, including representatives of thermostat
5 23 manufacturers, thermostat wholesalers, thermostat retailers,
5 24 contractors, environmental groups, and local government. If
5 25 collection efforts fail to meet the collection goals described
5 26 in this subsection, the department shall, in consultation with
5 27 interested persons, require modifications to collection
5 28 programs in an attempt to improve collection rates in
5 29 accordance with these goals. Modifications may include but
5 30 are not limited to financial incentives provided by
5 31 manufacturers to service technicians, contractors, or
5 32 homeowners, and the modifications may be in the form of
5 33 rebates, coupons, or cash awards.

5 34 EXPLANATION

5 35 This bill relates to the collection and recycling of
6 1 mercury-added thermostats.

6 2 The bill defines a mercury-added thermostat as a product or
6 3 device that uses a mercury switch to sense and control room
6 4 temperature through communication with heating, ventilating,
6 5 or air-conditioning equipment and includes thermostats used to
6 6 sense and control room temperature in residential, commercial,
6 7 industrial, and other buildings but does not include
6 8 thermostats used to sense and control temperature as part of a
6 9 manufacturing process.

6 10 The bill provides that a person who discards solid waste
6 11 shall separate mercury-added thermostats from that solid waste
6 12 for management as hazardous waste or universal hazardous
6 13 waste, according to all applicable state and federal
6 14 regulations. The bill provides requirements for a contractor
6 15 who replaces or removes mercury-added thermostats.

6 16 The bill provides that each thermostat manufacturer that
6 17 has offered for final sale, sold at final sale, or has
6 18 distributed mercury-added thermostats in the state shall do
6 19 all of the following:

6 20 1. Submit a plan to the department for approval that
6 21 describes a collection program for mercury-added thermostats.

6 22 2. Implement a mercury-added thermostat collection plan
6 23 approved by the department.

6 24 3. Beginning in 2010, submit an annual report to the
6 25 department by April 1 of each year that includes, at a
6 26 minimum, the number of mercury-added thermostats collected and
6 27 recycled by that manufacturer during the previous calendar
6 28 year, the estimated total amount of mercury contained in the
6 29 mercury-added thermostat components collected by that
6 30 manufacturer during the previous calendar year, an evaluation
6 31 of the effectiveness of the manufacturer's collection program,
6 32 and an accounting of the administrative costs incurred in the
6 33 course of administering the collection and recycling program.

6 34 The bill provides that, beginning July 1, 2009, a person
6 35 shall not offer for final sale, sell at final sale, or
7 1 distribute mercury-added thermostats. The bill requires a
7 2 wholesaler to act as a collection site for mercury-added
7 3 thermostats, promote and utilize the collection containers
7 4 provided by mercury-added thermostat manufacturers to
7 5 facilitate a contractor collection program, and complete all

7 6 other tasks as needed to establish and maintain a
7 7 cost-effective manufacturer collection program.
7 8 The bill requires retailers to participate in an education
7 9 and outreach program to educate consumers on the collection
7 10 program for mercury-added thermostats.
7 11 The bill requires the department of natural resources to
7 12 review and grant approval of, deny, or approve with
7 13 modifications a manufacturer plan. The bill requires the
7 14 department to establish a process for public review and
7 15 comment on all plans submitted by thermostat manufacturers
7 16 prior to plan approval. The bill requires the department to
7 17 maintain a list of entities that have registered as collection
7 18 points for mercury-added thermostats. The bill requires the
7 19 department to submit a written report to the general assembly
7 20 regarding the collection and recycling of mercury-added
7 21 thermostats in the state.
7 22 The bill provides that the goal of the collection and
7 23 recycling efforts is to collect and recycle at least 70
7 24 percent of the mercury-added thermostats estimated by the
7 25 department to be discarded within two years after the
7 26 implementation of approved plans and at least 80 percent of
7 27 the mercury-added thermostats estimated by the department to
7 28 be discarded within three years after the implementation of
7 29 approved plans. By January 1, 2009, the bill requires the
7 30 department to estimate the number of out-of-service
7 31 mercury-added thermostats generated in the state on an annual
7 32 basis. The bill provides that if collection efforts fail to
7 33 meet the maximum rate of collection, the department shall, in
7 34 consultation with interested persons, require modifications to
7 35 collection programs in an attempt to improve collection rates
8 1 in accordance with these goals.
8 2 LSB 6516HV 82
8 3 tw/nh/24