

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2347

Introduced by Assembly Member Ruskin

February 21, 2008

An act to add Article 10.2.2 (commencing with Section 25214.8.10) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2347, as amended, Ruskin. Mercury-added thermostats: collection program.

(1) Existing law prohibits, on and after January 1, 2006, a person from selling, offering to sell, or distributing for promotional purposes, in this state, a mercury-added thermostat, as defined, unless the mercury-added thermostat meets specified criteria. A violation of the hazardous waste control laws is a crime.

This bill would enact the Mercury Thermostat Collection Act of 2008 and would require a manufacturer, on and after January 1, ~~2010~~ 2009, that sold mercury-added thermostats in this state before January 1, 2006, and that sells thermostats in this state on and after January 1, 2009, to establish and maintain a collection and recycling program for out-of-service mercury-added thermostats.

The bill would require a collection and recycling program for out-of-service mercury-added thermostats to meet certain requirements, including developing educational and outreach materials, providing adequate incentives and education to contractors, service technicians, and homeowners to encourage return of thermostats to established recycling collection points and, on and after ~~January 31, 2010~~ April 1,

2009, and by ~~January 31~~ April 1 annually thereafter, publishing specified information on an Internet Web site.

The bill would require ~~a seller, on and after January 1, 2010,~~ wholesaler that has a physical location in the state; to act as a collection site for out-of-service mercury-added thermostats, and would require ~~a seller on and after that date~~ retailer or wholesaler that distributes new thermostats by mail to buyers in the state to include ~~a an Internet Web site address and toll-free telephone number with instructions on obtaining a prepaid mail-in package label~~ with the new thermostat. A ~~seller wholesaler~~ wholesaler would also be required, ~~on and after January 1, 2010,~~ to distribute to its customers the educational and outreach materials developed by the program.

Because a violation of the act’s requirements would be a crime, the bill would impose a state-mandated local program by creating new crimes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 10.2.2 (commencing with Section
2 25214.8.10) is added to Chapter 6.5 of Division 20 of the Health
3 and Safety Code, to read:

4
5 Article 10.2.2. Mercury Thermostat Collection Act of 2008
6

7 25214.8.10. (a) The Legislature finds and declares all of the
8 following:

9 (1) Mercury that is released into the atmosphere can be
10 transported long distances and deposited in aquatic ecosystems,
11 where it is methylated to methylmercury, the organic and most
12 toxic form of mercury.

13 (2) Methylmercury bioaccumulates and biomagnifies in animals,
14 including fish and humans.

1 (3) The March 2007 report of the Office of Environmental
2 Health Hazard Assessment stated that fish consumption advisories
3 exist in about 40 states, including, within California, for the San
4 Francisco Bay and delta, Tomales Bay, and eight other county
5 water bodies, and more locations may be included as more fish
6 and water bodies are tested.

7 (4) Methylmercury is a known neurotoxin to which the human
8 fetus is very sensitive.

9 (5) The federal Centers for Disease Control and Prevention
10 estimate that between 300,000 and 630,000 infants are born in the
11 United States each year with mercury levels that are associated,
12 at later ages, with the loss of IQ.

13 (6) New evidence indicates that methylmercury exposure may
14 increase the risk of cardiovascular disease in humans, especially
15 adult men.

16 (7) According to a 2004 study by the federal Environmental
17 Protection Agency, more than 10 percent of the estimated mercury
18 reservoir still currently in use in the United States resides in
19 mercury-added thermostats.

20 (8) Decreases in local and regional sources of mercury emissions
21 have been shown to lead to decreases in mercury levels in fish and
22 wildlife.

23 (9) As of January 1, 2006, state law banned the sale of new
24 mercury-added thermostats for most uses, but the long lifetime of
25 thermostats means that many of them are still in use.

26 (10) State law bans the disposal of mercury-added thermostats
27 in solid waste landfills, but ~~a performance-based and accountable~~
28 *an effective* system for collecting and recycling out-of-service
29 mercury-added thermostats has not been established.

30 (11) In 1998, the largest thermostat makers, General Electric,
31 Honeywell, and White Rodgers, established the Thermostat
32 Recycling Corporation (TRC) to implement a program for
33 collecting used mercury-added thermostats. Under the TRC
34 program, thermostat wholesalers and contractors, as well as
35 household hazardous waste facilities, volunteer to collect
36 thermostats from heating, ventilating, and air-conditioning
37 contractors, and the general public.

38 (12) Currently, less than 5 percent of the mercury-added
39 thermostats removed from buildings in the state are turned in to

1 the TRC collection ~~program~~ *program, according to an estimate*
 2 *by the Department of Toxic Substances Control.*

3 (13) The California Integrated Waste Management Board, on
 4 ~~September 18, 2007,~~ *January 23, 2008,* adopted an Overall
 5 Framework for an Extended Producer Responsibility System for
 6 ~~California, that states that producers~~ *California.*

7 (14) *Producers* that historically manufactured and sold
 8 mercury-added thermostats in California before 2006 have a
 9 responsibility to collect out-of-service mercury thermostats and
 10 ensure that they are properly handled and recycled.

11 (b) This article shall be known, and may be cited, as the
 12 “Mercury Thermostat Collection Act of 2008.”

13 25214.8.11. For purposes of this article, the following
 14 definitions shall apply:

15 (a) “Manufacturer” means a business concern that sold
 16 mercury-added thermostats in this state before January 1, 2006,
 17 that were made by the business concern, and that sells thermostats
 18 in this state that are made by that business concern, on and after
 19 January 1, 2009, that are not mercury-added thermostats.

20 (b) “Mercury-added thermostat” has the same meaning as
 21 defined in paragraph (2) of subdivision (b) of Section 25214.8.1.

22 (c) “Out-of-service ~~mercury added~~ *mercury-added* thermostat”
 23 means a mercury-added thermostat that is removed from a building
 24 or facility in this state and is intended to be discarded.

25 (d) “Program” *means a system for the collection,*
 26 *transportation, recycling, and disposal of out-of-service*
 27 *mercury-added thermostats that is financed, as well as managed*
 28 *or provided, by a manufacturer.*

29 ~~(d)~~ “Seller”

30 (e) “Retailer” means a person who sells thermostats of any kind
 31 directly to a ~~contractor,~~ or a homeowner, or other nonprofessional
 32 through a selling or distribution mechanism, including, but not
 33 limited to, a sale using catalogs or the Internet. *A retailer may be*
 34 *a wholesaler if the person meets the definition of a wholesaler set*
 35 *forth in subdivision (g).*

36 ~~(e)~~

37 (f) (1) “Thermostat” means a product or device that uses a
 38 switch to sense and control room temperature through
 39 communication with heating, ventilating, or air-conditioning
 40 equipment. “Thermostat” includes a thermostat used to sense and

1 control room temperature in residential, commercial, industrial,
2 and other buildings, but does not include a thermostat used to sense
3 and control temperature as part of a manufacturing process.

4 (2) “New thermostat” means a thermostat sold or offered for
5 sale on and after January 1, 2009.

6 (g) “Wholesaler” means a person engaged in the distribution
7 and wholesale selling of heating, ventilation, and air-conditioning
8 components to contractors who install heating, ventilation, and
9 air-conditioning components. A manufacturer, as defined by this
10 section, is not a wholesaler.

11 ~~25214.8.12. On and after January 1, 2010, a~~ A manufacturer
12 shall establish and maintain a collection and recycling program
13 for out-of-service mercury-added thermostats in compliance with
14 this article. A manufacturer may establish a collection and recycling
15 program individually or collectively with other manufacturers, but
16 the program shall meet all of the requirements of Section
17 25214.8.13. *A program may contract with a retailer for an in-store
18 or out-of-store collection of mercury-added thermostats.*

19 25214.8.13. A collection and recycling program for
20 out-of-service mercury-added thermostats shall meet all of the
21 following requirements:

22 (a) The mercury-added thermostats collected by the program
23 are collected, handled, and recycled in compliance with this chapter
24 and the regulations adopted pursuant to this chapter.

25 (b) The program provides authorized recycling bins for
26 mercury-added thermostat collection to all ~~sealers~~ *retailers and
27 wholesalers* at no cost.

28 (c) On and after January 1, 2010, the program makes available
29 authorized recycling bins at no cost for mercury-added thermostat
30 collection to a local agency that requests a bin for mercury-added
31 thermostat collection for use at a household hazardous waste
32 collection facility or event.

33 (d) The program either collects the recycling bins provided
34 pursuant to subdivisions (b) and (c) when they are full, or pays for
35 the costs of shipping the recycling bins to an authorized mercury
36 ~~recycler~~ *recycler, as prescribed by the program.*

37 (e) The program develops educational and other outreach
38 materials aimed at contractors and homeowners, and makes those
39 materials available to ~~sealers~~ *retailers, wholesalers, and household*

1 hazardous waste programs. These materials may include, but are
2 not limited to, one or more of the following:

3 (1) Signage that is prominently displayed and easily visible to
4 the consumer.

5 (2) Written materials *or templates of materials for reproduction*
6 *by retailers and wholesalers, to be provided to the consumer at*
7 *the time of purchase, delivery, or both purchase and delivery of a*
8 *thermostat. The materials shall include information on the*
9 *prohibition of improper disposal of mercury-added thermostats,*
10 *on the proper methods for recycling of mercury-added thermostats,*
11 *and on the available opportunities for recycling.*

12 (3) References to the recycling opportunity in advertising or
13 other promotional materials, or both.

14 (4) Direct communications with the consumer at the time of
15 purchase.

16 (f) The program provides adequate incentives and education to
17 contractors, service technicians, and homeowners to encourage
18 return of thermostats to established recycling collection points.

19 (g) The program encourages the purchase of ~~thermostats~~
20 *programmable thermostats that comply with Part 6 (commencing*
21 *with Section 100) of Title 24 of the California Building Code*
22 *Standards and that qualify for the Energy Star program of the*
23 *federal Environmental Protection Agency, as replacements for*
24 *mercury-added thermostats.*

25 (h) The program includes mechanisms to protect against the
26 fraudulent return of thermostats.

27 (i) On and after ~~January 31, 2010, and by January 31 April 1,~~
28 *2009, and by April 1* annually thereafter, the program publishes
29 on an Internet Web site information that includes all of the
30 following:

31 (1) The number of mercury-added thermostats collected and
32 recycled by the program pursuant to this article during the previous
33 calendar year.

34 (2) The estimated total amount of mercury contained in the
35 thermostat components collected by the program pursuant to this
36 article.

37 (3) An evaluation of the effectiveness of the program.

38 (4) An accounting of the administrative costs incurred in the
39 course of administering the program.

1 (5) Examples of outreach and educational materials used by the
2 program.

3 ~~25214.8.14. (a) On and after January 1, 2010, a seller A~~
4 ~~wholesaler~~ that has a physical location in the state shall act as a
5 collection site for out-of-service mercury-added thermostats.

6 (b) ~~On and after January 1, 2010, a seller A retailer or~~
7 ~~wholesaler~~ that distributes new thermostats by mail to buyers in
8 the state shall include with the sale of the new thermostat, a prepaid
9 ~~mail-in package~~ an Internet Web site address and toll-free
10 telephone number with instructions on obtaining a prepaid mail-in
11 label that a consumer may use to send an out-of-service
12 mercury-added thermostat to an authorized recycler.

13 (c) ~~On and after January 1, 2010, a seller A wholesaler~~ shall
14 distribute the educational and outreach materials developed by the
15 program pursuant to Section 25214.8.13 to the customers of that
16 seller ~~wholesaler~~.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.