HOUSE . . . . . No. 2479

The Commonwealth of Massachusetts

Senate, December 20, 2012.

BILL #: H04305

BILL STATUS: Favorable with Amendment

DISSENTERS:

Jehlen, Patricia

ACCOMPANIED BILLS:

None

For the committee,

STEPHEN M. BREWER

SENATE . . . . . No. 2479

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

SECTION 1. Section 2 of chapter 21H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of "Public body" the following definition:-

"Qualified lamp recycler," a person who engages in the manual or mechanical separation of spent household mercury-added lamps to recover components and mercury contained therein, and meets the requirements of the commonwealth for handling, transporting and disposal of mercury-added lamps.

SECTION 2. Section 6J of said chapter 21H, as so appearing, is hereby amended by striking out subsections (d) and (e) and inserting in place thereof the following 2 subsections:-

(d) (1) A manufacturer of mercury-added lamps shall satisfy the requirements of this section if such manufacturer who sells mercury-added lamps in the commonwealth individually pays a registration fee annually until June 30, 2022, not to exceed $8,000 per year, into an expendable trust, under section 6 of chapter 6A and any applicable regulations, for the limited purpose of documented department and municipal administration, access, communication, enforcement and education costs for proper mercury-added lamp disposal.

16 (2) A person who sells fluorescent lamps at retail for residential or commercial customers
17 may post the following notice in 24-point type or larger and in a manner clearly visible to a
18 consumer examining fluorescent lamps offered for sale: "Fluorescent bulbs save energy and
19 reduce environmental pollution. Note: Fluorescent bulbs contain a small amount of mercury and
20 must be properly recycled at the end of their use. Contact your municipality or
21 www.lamprecycle.org for bulb recycling options." A retailer may include additional language in
22 the notice in order to promote the sale or in-store recycling of fluorescent lamps, provided that
23 the notice language set forth in this subsection is present. A manufacturer, individually or
24 collectively, must provide a printed copy of that notice, free of charge, at the request of any
25 retailer of mercury-added lamps for its retail establishment in the commonwealth.

26 (e) (1) When an employee or agent of the department has reason to believe that a person
27 has violated subsection (a) of section 6I, that employee or agent of the department shall refer
28 cases to and cooperate with district attorneys, the attorney general and other state law
29 enforcement officials to enforce said subsection (a) of said section 6I.

30 (2) An inspector, as defined by section 1 of chapter 143, may enforce subsection (a) of
31 section 6I. A municipality may, under its authority in section 94 of said chapter 143, institute
32 additional fines and penalties for violations of said subsection (a) of said section 6I. Any
33 municipal employee enforcing this section must refer cases to and cooperate with district
34 attorneys, the attorney general and other state law enforcement officials to enforce said
35 subsection (a) of said section 6I.

36 (3) (a) A qualified mercury-added lamp recycler engaged in the collection and recycling
37 of mercury-added lamps shall issue a certificate of mercury lamp recycling to all customers upon

38 collection. Customers must keep these certificates on file for not less than 36 months and provide
39 access to the department upon request.

40 (b) A qualified mercury-added lamp recycler shall annually provide information
41 regarding the recycling of lamps by any person in the commonwealth as is requested by the
42 department. The department may establish by rule the information that qualified mercury-added
43 lamp recyclers shall provide.

44 SECTION 3. Chapter 21H of the General Laws is hereby further amended by inserting
45 after section 6J, as so appearing, the following section:-

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

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

50 "Department", the department of environmental protection.

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

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

56 "Mercury-added thermostat”, a product or device that uses a mercury switch to sense and
57 control room temperature through communication with heating, ventilating or air-conditioning
58 equipment, including thermostats used to sense and control room temperature in residential,

59 commercial, industrial and other buildings, but excluding thermostats used to sense and control
60 temperature as part of a manufacturing process.

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

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

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

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

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

78 (2) A thermostat wholesaler shall meet the requirements of this section by participating as
79 a collection site in a collection program as described in subsection (d), or by collecting mercury-

80 added thermostats and managing the collected mercury-added thermostats in accordance with
81 applicable federal and state laws governing the disposal of universal waste.

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

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

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

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

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

97 (4) A person who removes a mercury-added thermostat from a location that is
98 participating in an energy efficiency or weatherization program supported or administered in
99 whole or in part by a department, agency, authority or political subdivision of the commonwealth
100 or conducted as a result of any statutory requirement, including, but not limited to, demand-side

101 management or least-cost procurement, shall deliver that thermostat to a collection site
102 established under subsection (d) for recycling.

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

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

119 (i) make collection containers available to each thermostat wholesaler, thermostat retailer,
120 qualified contractor and local government authority within the commonwealth that requests a
121 container, ensuring that those containers are accompanied by information regarding the proper

122 management of mercury-added thermostats as universal waste, in accordance with the collection
123 program and the department's rules and regulations;

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

127 (iii) collect no fees or other charges for participation in the program, except that each
128 thermostat wholesaler, thermostat retailer, qualified contractor and local government authority
129 that is provided with 1 or more collection containers may be charged a 1-time program
130 administration fee not to exceed $25 per collection container.

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

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

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

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

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

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

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

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

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

159 SECTION 4. Section 6J1/2 of said chapter 21H, inserted by section 3, is hereby repealed.

160 SECTION 5. For the period beginning on January 1, 2013 through December 31, 2016,
161 each thermostat manufacturer that has distributed, offered for final sale or sold at final sale any
162 mercury-added thermostat within the commonwealth shall, individually or collectively conduct
163 education and outreach efforts including, but not limited to: (i) promoting the availability of

164 collection containers to thermostat wholesalers, thermostat retailers, qualified contractors and
165 units of local government in the commonwealth; (ii) educating contractors, homeowners and
166 other interested persons of the importance of properly managing out-of-service mercury-added
167 thermostats and opportunities for the collection of those thermostats and the availability of
168 manufacturer supported programs; (iii) providing signage to participating collection locations
169 that can be prominently displayed to promote the collection and recycling of out-of-service
170 mercury-added thermostats; and (iv) providing written materials or templates of written materials
171 for reproduction by participating thermostat wholesalers and thermostat retailers to be provided
172 to customers at the time of purchase or delivery of a thermostat. These materials shall include,
173 but not be limited to, information on the importance of properly managing out-of-service
174 mercury-added thermostats and opportunities for the collection of those thermostats. Each
175 annual report required by subsection (e) of section 6J1/2 of chapter 21H of the General Laws
176 shall include a description of the education and outreach efforts conducted under this section.

177 SECTION 6. Upon the completion of the first calendar year of the collection and
178 recycling program established by section 6J ½ of chapter 21H of the General Laws, the
179 department of environmental protection shall conduct an assessment and evaluation of that
180 program, including the number of thermostats collected and proposed measures to increase that
181 number in future years. The department of environmental protection shall, on or before
182 December 31, 2014, file a report of its findings, including any recommendations of legislation,
183 with the clerks of the senate and house of representatives and the co-chairs of the joint committee
184 on environment, natural resources and agriculture.

185 SECTION 7. Notwithstanding any general or special law to the contrary, the regulations
186 adopted by the department of environmental protection to implement subsections (d) and (e) of

187 section 6J of chapter 21H of the General Laws prior to the effective date of this act are hereby
188 repealed, and all prior and future obligations of manufacturers under those regulations and under
189 subsections (d) and (e) of said section 6J of said chapter 21H prior to the effective date of this act
190 are terminated and not enforceable.

191 SECTION 8. Subsections (e) and (g) of section 6J1/2 of chapter 21H of the General
192 Laws, inserted by section 3, shall take effect on January 1, 2014.

193 SECTION 9. Subsection (f) of section 6J1/2 of chapter 21H of the General Laws, as so
194 inserted, shall take effect on July 1, 2014.

195 SECTION 10. Section 4 of this act shall take effect on December 31, 2020.