

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 adoption of the accompanying bill:

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

PETITION OF:

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

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

In the Year Two Thousand Thirteen

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:

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

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

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

7 "Department", the department of environmental protection.

8 “Local government authority”, a household hazardous waste facility, a solid waste
9 management 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
11 under a 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
14 control room temperature through communication with heating, ventilating or air-conditioning

equipment, including thermostats used to sense and control room temperature in residential, commercial, industrial and other buildings, but excluding thermostats used to sense and control temperature as part of a manufacturing process.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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