

HOUSE No. 4380

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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
15 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 or contractor shall not offer for final sale, sell at final sale
33 or distribute any thermostat unless said thermostat wholesaler or contractor acts as a collection
34 site for mercury-added thermostats.

35 (2) A thermostat wholesaler or qualified contractor shall meet the requirements of this
36 section by participating as a collection site in a collection program as described in subsection (d),

37 or by collecting mercury-added thermostats and managing the collected mercury-added
38 thermostats in accordance with applicable federal and state laws governing the disposal of
39 universal waste.

40 (3) A thermostat wholesaler or thermostat retailer acting as a collection site shall provide
41 visible signage identifying the location as a collection location for 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 the
44 provisions of this section.

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

47 (2) Any contractor that removes a mercury-added thermostat from a building shall deliver
48 said thermostat to a collection site established pursuant to paragraph (d) of this section for
49 recycling.

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

55 (4) Any person who removes a mercury-added thermostat from a location that is
56 participating in an energy efficiency or weatherization program supported or administered in
57 whole or in part by any department, agency, authority, or political subdivision of the

58 commonwealth, or conducted as a result of any statutory requirement, including, but not limited
59 to, demand-side management or least-cost procurement shall deliver said thermostat to a
60 collection site established pursuant to subsection (d) for recycling.

61 (5) No municipal or private solid waste hauler or operator of a solid waste facility shall
62 knowingly dispose, or allow to be disposed, a mercury-added thermostat as solid waste unless
63 the mercury has been first removed by recycling, or disposed as hazardous waste. A solid waste
64 facility may knowingly accept or collect mercury-added thermostats for proper disposal if the
65 device is segregated from solid waste and stored in an identified recycling container provided
66 that the facility participates in a manufacturer's program as a collection site or has established a
67 collection site to collect, manage and dispose of mercury-added thermostats as hazardous waste
68 in accordance with applicable federal and state waste disposal laws and regulations.

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

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

77 (2) establish a system to collect, transport and properly manage out-of-service mercury-
78 added thermostats from all collection sites established under the provisions of this section; and

79 (3) collect no fees or other charges for participation in the program, except that each
80 thermostat wholesaler, thermostat retailer, qualified contractor, and local government authority
81 that is provided with 1 or more collection containers may be charged a one-time program
82 administration fee not to exceed 25 dollars per collection container.

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

87 (1) the number of mercury-added thermostats collected and recycled by the manufacturer
88 pursuant to this section during the previous calendar year;

89 (2) the estimated total amount of mercury contained in the thermostat components
90 collected by the manufacturer pursuant to this section in the previous calendar year;

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

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

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

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

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

103 (g) The department shall collect and maintain data on the collection and recycling
104 programs established in subsection (d) of this section, including the number of mercury-added
105 thermostats collected and recycled, and the number of wholesalers, retailers, qualified
106 contractors, and local government authorities participating in the program. On or before July 1
107 of each year, the department shall prepare an annual report detailing the data collected under this
108 subsection during the prior calendar year and shall file copies of said reports with the clerks of
109 the senate and house of representatives and the co-chairs of the joint committee on environment,
110 natural resources and agriculture.

111 SECTION 3. For the period commencing January 1, 2013 through December 31, 2016,
112 each thermostat manufacturer that has distributed, offered for final sale or sold at final sale any
113 mercury-added thermostat within the commonwealth shall, individually or collectively conduct
114 education and outreach efforts including, but not limited to: (i) promoting the availability of
115 collection containers to thermostat wholesalers, thermostat retailers, qualified contractors,
116 contractors and units of local government in the commonwealth; (ii) educating contractors,
117 homeowners and other interested persons of the importance of properly managing out-of-service
118 mercury-added thermostats and opportunities for the collection of said thermostats and the
119 availability of manufacturer supported programs; (iii) providing signage to participating
120 collection locations that can be prominently displayed to promote the collection and recycling of
121 out-of-service mercury-added thermostats; and (iv) providing written materials or templates of

122 written materials for reproduction by participating thermostat wholesalers and thermostat
123 retailers to be provided to customers at the time of purchase or delivery of a thermostat. These
124 materials shall include, but not be limited to, information on the importance of properly
125 managing out-of-service mercury-added thermostats and opportunities for the collection of said
126 thermostats. Each annual report required by subsection (e) of section 6J1/2 of chapter 21H of the
127 General Laws shall include a description of the education and outreach efforts conducted
128 pursuant to this section.

129 SECTION 4. Upon the completion of the first calendar year of the collection and
130 recycling program established by section 6J ½ of chapter 21H of the General Laws, the
131 department of environmental protection shall conduct an assessment and evaluation of said
132 program, including the number of thermostats collected and proposed measures to increase that
133 number in future years, and shall, on or before September 30, 2014, file a report of its findings,
134 including any recommendations of legislation, with the clerks of the senate and house of
135 representatives and the co-chairs of the joint committee on environment, natural resources and
136 agriculture.

137 SECTION 5. Subsection (e) and subsection (g) of section 6J1/2 of chapter 21H of the
138 General Laws, as appearing in section 1, shall take effect on January 1, 2014.

139 SECTION 6. Subsection (f) of section 6J1/2 of chapter 21H of the General Laws, as
140 appearing in section 1, shall take effect on July 1, 2014.

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

142 SECTION 7. Section 2 of this act shall take effect on December 31, 2020.