



AN ACT CONCERNING MERCURY EDUCATION AND REDUCTION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2002*) The General Assembly finds
2 that mercury is a persistent and toxic pollutant that bioaccumulates in
3 the environment, and that in order to create and maintain a healthful
4 environment and protect public health, the virtual elimination of the
5 discharge of anthropogenic mercury should be pursued.

6 Sec. 2. (NEW) (*Effective July 1, 2002*) As used in sections 1 to 12,
7 inclusive, of this act:

8 (1) "Mercury" means elemental mercury and mercury compounds;

9 (2) "Mercury-added product" means a product, commodity,
10 chemical or component of a product to which mercury or a mercury
11 compound is intentionally added in order to provide a specific
12 characteristic, appearance, or quality, to perform a specific function or
13 for any reason. "Mercury-added product" includes, but is not limited
14 to, formulated mercury-added products and fabricated mercury-added
15 products. "Mercury-added product" does not include any packaging
16 component, as defined in subdivision (3) of section 22a-255h of the
17 general statutes;

18 (3) "Formulated mercury-added product" means a mercury-added
19 product that is sold as a consistent mixture of chemicals, including, but

20 not limited to, laboratory chemicals, materials used for cleaning,
21 maintenance or disinfection, cosmetics, pharmaceuticals, coating
22 materials, acids, alkalites, bleach, pharmaceutical products, stains,
23 reagents, preservatives, fixatives, buffers and dyes;

24 (4) "Fabricated mercury-added product" means a mercury-added
25 product that consists of a combination of individual components that
26 combine to make a single unit, including, but not limited to, mercury-
27 added measuring devices, lamps and switches;

28 (5) "Mercury fever thermometer" means a mercury-added product
29 that is used for measuring body temperature, but does not mean a
30 digital thermometer that includes a button cell battery containing
31 mercury;

32 (6) "Mercury-added novelty" means a mercury-added product
33 intended mainly for personal or household enjoyment or adornment,
34 including, but not limited to, products intended for use as practical
35 jokes, figurines, adornments, toys, games, cards, ornaments, yard
36 statues and figures, candles, jewelry, holiday decorations or footwear
37 or other items of apparel. A product is not a "mercury-added novelty"
38 solely on the basis that it includes a removable button cell battery
39 containing mercury;

40 (7) "Manufacturer" means any person that (A) produces a mercury-
41 added product, or (B) serves as an importer or domestic distributor of
42 a mercury-added product produced outside the United States. In the
43 case of a multi-component product, "manufacturer" means the last
44 manufacturer to produce or assemble the product, unless the multi-
45 component mercury-added product is produced outside the United
46 States, in which case "manufacturer" means the importer or domestic
47 distributor;

48 (8) "Person" means any individual, organization, partnership, joint
49 venture, association, firm, limited liability company, corporation or
50 other entity, and includes a municipality, the federal government, the
51 state or any instrumentality of the state, or other governmental entity

52 and any officer or governing or managing body of any partnership,
53 association, firm or corporation or any member or manager of a
54 limited liability company;

55 (9) "Vehicle" means any device capable of being moved upon a
56 public highway and any device in, upon or by which any person or
57 property is or may be transported or drawn upon a public highway,
58 but does not include devices moved by human or animal power or
59 used exclusively upon stationary rails or tracks;

60 (10) "Scrap metal" means used or discarded items that consist
61 predominantly of ferrous metals, aluminum, brass, copper, lead,
62 chromium, tin, nickel or alloys;

63 (11) "Solid waste" means unwanted or discarded solid, liquid,
64 semisolid or contained gaseous material, including, but not limited to,
65 demolition debris, material burned or otherwise processed at a
66 resources recovery facility or incinerator, material processed at a
67 recycling facility, sludges or other residue from a water pollution
68 abatement facility, water supply treatment plant or air pollution control
69 facility;

70 (12) "Commissioner" means the Commissioner of Environmental
71 Protection;

72 (13) "Pollution abatement facility" means any equipment, plant,
73 treatment works, structure, machinery, apparatus or land, or any
74 combination thereof, acquired, used, constructed or operated for the
75 storage, collection, reduction, recycling, reclamation, disposal,
76 separation or treatment of water or wastes, or for the final disposal of
77 residues resulting from the treatment of water or wastes, including,
78 but not limited to, (A) pumping and ventilating stations, facilities,
79 plants and works; (B) outfall sewers, interceptor sewers and collector
80 sewers; and (C) other real or personal property and appurtenances
81 incident to such facilities' use or operation;

82 (14) "Subsurface sewage disposal system" means a system consisting

83 of a house or collection sewer, a septic tank followed by a leaching
84 system, any necessary pumps or siphons and any groundwater control
85 system on which the operation of the leaching system is dependent.

86 Sec. 3. (NEW) (*Effective July 1, 2002*) The commissioner shall
87 participate in the establishment and implementation of a regional,
88 multi-state clearinghouse to assist in carrying out the requirements set
89 forth in sections 1 to 12, inclusive, of this act and to help coordinate
90 reviews of the manufacturers' notifications regarding mercury-added
91 products, applications for phase-out exemptions, collection system
92 plans, disclosures of mercury content, applications for alternative
93 labeling or notification systems or both, education and outreach
94 activities, and any other functions related to sections 1 to 12, inclusive,
95 of this act. The commissioner shall consider the decisions of the
96 clearinghouse in making determinations with respect to the
97 requirements of sections 1 to 12, inclusive, of this act.

98 Sec. 4. (NEW) (*Effective July 1, 2002*) (a) On and after January 1, 2003,
99 no person shall offer any mercury-added product for sale or use by
100 any means, including e-commerce, or distribute for promotional
101 purposes in this state unless the manufacturer gives prior notification
102 in writing to the commissioner or the regional, multi-state
103 clearinghouse described in section 3 of this act as provided in this
104 section. Such notification, in a form prescribed by the commissioner,
105 shall at a minimum include (1) a brief description of the product or
106 category of products to be offered for sale or use or distributed; (2) an
107 identification of each product by its mercury content in one of the
108 following ranges: Less than zero to five milligrams, greater than five
109 milligrams to ten milligrams, greater than ten milligrams to fifty
110 milligrams, greater than fifty milligrams to one hundred milligrams,
111 greater than one hundred milligrams to one thousand milligrams and
112 greater than one thousand milligrams; and (3) the name and address of
113 the manufacturer and the name, address and phone number of a
114 contact person at the manufacturer. The manufacturer shall revise the
115 information in the notification whenever there is significant change in
116 the information or when requested by the commissioner.

117 (b) Any mercury-added product for which federal law preempts
118 state authority over notice requirements is exempt from the
119 requirements of this section.

120 (c) With the approval of the commissioner, the manufacturer may
121 supply the information required in subdivisions (1) to (3), inclusive, of
122 subsection (a) of this section for a product category rather than an
123 individual product.

124 (d) Public disclosure of trade secrets submitted to the commissioner
125 pursuant to this section shall be governed by the provisions of chapter
126 14 of the general statutes. Notwithstanding the provisions of said
127 chapter 14, the commissioner may provide the regional, multi-state
128 clearinghouse described in section 3 of this act with copies of such
129 information and the commissioner may assist the clearinghouse in
130 compiling or publishing analyses or summaries of such information,
131 provided the analyses or summaries do not identify any manufacturer
132 or reveal any confidential information.

133 Sec. 5. (NEW) (*Effective July 1, 2002*) (a) Notwithstanding the
134 provisions of section 6 of this act, on and after July 1, 2003, no person
135 shall offer for sale or use by any means, including e-commerce, or
136 distribute for promotional purposes in the state any mercury-added
137 novelty. A manufacturer that produces or sells mercury-added
138 novelties shall notify retailers that sell mercury-added novelties about
139 such product ban and inform such retailers of how to dispose of the
140 remaining inventory in accordance with chapter 445 of the general
141 statutes.

142 (b) Notwithstanding the provisions of section 6 of this act, on and
143 after January 1, 2003, no person shall offer for sale or use by any
144 means, including e-commerce, or distribute for promotional purposes
145 mercury fever thermometers except by prescription written by a
146 physician. A manufacturer of mercury fever thermometers shall
147 provide the buyer or the recipient with notice of mercury content,
148 instructions on proper disposal and instructions that clearly describe

149 how to carefully handle the thermometer to avoid breakage and on
150 proper cleanup should a breakage occur.

151 (c) Notwithstanding the provisions of section 6 of this act, on and
152 after July 1, 2003, no person shall offer for sale or use by any means,
153 including e-commerce, or distribute for promotional purposes mercury
154 dairy manometers. A manufacturer that produce or sell mercury dairy
155 manometers shall notify retailers about the provisions of this
156 subsection and how to dispose of the remaining inventory properly in
157 accordance with chapter 445 of the general statutes. The Commissioner
158 of Environmental Protection, in consultation with the Commissioner of
159 Agriculture, shall examine the feasibility of implementing a collection
160 and replacement program for dairy manometers, and shall implement
161 such a program within available appropriations.

162 Sec. 6. (NEW) (*Effective July 1, 2002*) (a) Except as provided in section
163 7 of this act, no person shall offer for sale or use by any means,
164 including e-commerce, or distribute for promotional purposes any
165 mercury-added product if: (1) After July 1, 2004, the mercury content
166 of the product exceeds one gram in the case of fabricated mercury-
167 added products or two hundred fifty parts per million in the case of
168 formulated mercury-added products; and (2) on and after July 1, 2006,
169 the mercury content of the product exceeds one hundred milligrams in
170 the case of fabricated mercury-added products or fifty parts per
171 million in the case of formulated mercury-added products.

172 (b) Not later than July 1, 2003, the commissioner shall convene a
173 working group which shall include, but not be limited to, government
174 representatives from other northeastern states to study and make
175 recommendations regarding the regulation of mercury-added
176 products that have a mercury content in excess of ten milligrams or ten
177 parts per million but less than one hundred milligrams or fifty parts
178 per million.

179 (c) In the case of a product that contains one or more mercury-
180 added products as a component, the phase-out limits specified in

181 subsection (a) of this section apply to each component part or parts
182 and not to the entire product.

183 (d) For a product that contains more than one mercury-added
184 product as a component, the phase-out limits specified in subsection
185 (a) of this section shall apply to each component.

186 Sec. 7. (NEW) (*Effective July 1, 2002*) (a) The commissioner shall
187 exempt a mercury-added product from the limits on total mercury
188 content set forth in subsection (a) of section 6 of this act if the level of
189 mercury or mercury compounds contained in the product are
190 necessary to comply with federal or state health or safety
191 requirements. In order to obtain such exemption, the manufacturer
192 shall provide the commissioner and the regional, multi-state
193 clearinghouse described in section 3 of this act with information that
194 demonstrates such necessity.

195 (b) A manufacturer of a mercury-added product or category of
196 products may apply to the commissioner and the clearinghouse for a
197 modified or conditional exemption from the limits on total mercury
198 content set forth in subsection (a) of section 6 of this act provided such
199 exemption shall be for not more than four years. Prior to issuing a
200 modified or conditional exemption, the commissioner shall consult
201 with the clearinghouse, states, provinces and regional governmental
202 organizations to promote consistency in the implementation of this
203 section. The commissioner may renew, for a period of not longer than
204 four years, a modified or conditional exemption one or more times if
205 (1) the manufacturer applies for the renewal, and (2) the commissioner
206 finds that the manufacturer meets the requirements for such
207 exemption as provided by the clearinghouse and that the
208 manufacturer has complied with all the conditions of the original
209 approval.

210 Sec. 8. (NEW) (*Effective July 1, 2002*) (a) On and after July 1, 2004, no
211 person shall offer for sale or use by any means, including e-commerce,
212 or distribute for promotional purposes any mercury-added product

213 unless both the product and either its packaging or care and use
214 manual are labeled in accordance with this section, any regulations
215 adopted under this section or the terms of any approved alternative
216 labeling or notification granted under subsection (h) of this section. A
217 retailer shall not be found in violation of this subsection if the retailer
218 lacked knowledge that the product contained mercury.

219 (b) If a mercury-added product is a component of another product,
220 the product containing the component and the component shall both
221 be labeled as provided in this section, provided such component may
222 feasibly be removed from the product by the purchaser. The label on a
223 product containing a mercury-added component shall identify the
224 component with sufficient detail so that the component may be readily
225 located.

226 (c) All labels contained on packaging shall be clearly visible prior to
227 sale and shall be sufficient to inform the purchaser, using words or
228 symbols, that mercury is present in the product and that the product
229 should be properly disposed of or recycled.

230 (d) Labels affixed to the product shall be constructed of materials
231 that are sufficiently durable to remain legible for the useful life of the
232 product.

233 (e) On and after July 1, 2004, any person offering a mercury-added
234 product for sale or use by any means, including e-commerce, or
235 distributing such product for promotional purposes shall clearly
236 advise in writing the purchaser or recipient prior to the time of sale,
237 use or distribution that the product contains mercury. Such
238 requirement shall apply to all transactions in which the purchaser or
239 recipient is unable to view the labels on the package or the product
240 prior to purchase or receipt, including, but not limited to, catalog,
241 telephone and e-commerce transactions.

242 (f) The manufacturer of a product shall be responsible for product
243 and package labels required under this section, unless the wholesaler
244 or retailer agrees in writing to accept the responsibility of

245 implementing an alternative to the labeling requirements of this
246 section provided such alternative is approved under subsection (h) of
247 this section.

248 (g) (1) Manufacturers shall meet all the requirements of this section
249 for large appliances, including, but not limited to, washers, dryers,
250 ovens, including microwave ovens, refrigerators, air conditioners,
251 dehumidifiers or portable heaters sold in a store where such appliance
252 is on display, except that no package labeling shall be required; (2)
253 manufacturers shall meet all the requirements of this section for
254 mercury fever thermometers, except that no product labeling shall be
255 required; (3) in the case of vehicles, (A) manufacturers shall meet the
256 product labeling requirements of this section for vehicles by placing a
257 label on the doorpost of the vehicles that lists the mercury-added
258 components that may be present in the vehicle, and (B) manufacturers
259 shall not be required to label the mercury-added components of the
260 vehicle; (4) manufacturers shall meet all the requirements of this section
261 for button cell batteries containing mercury, except that no product
262 labeling shall be required; and (5) in the case of products that contain
263 button cell batteries containing mercury as the only mercury
264 components, manufacturers shall meet the packaging requirements of
265 this section by including a label in the product instructions, if any, and
266 on the packaging, and no further product labeling shall be required.

267 (h) A manufacturer may apply to the commissioner and the
268 regional, multi-state clearinghouse described in section 3 of this act for
269 an alternative to the requirements of subsections (a) to (g), inclusive, of
270 this section if: (1) Compliance with the requirements is not feasible; (2)
271 the proposed alternative would be at least as effective in providing
272 presale notification of mercury content and in providing instructions
273 on proper disposal; or (3) federal law preempts state authority over
274 labeling.

275 Sec. 9. (NEW) (*Effective July 1, 2002*) (a) On and after July 1, 2003, no
276 person shall offer any mercury-added product for sale or use by any
277 means, including e-commerce, or distribute any such product for

278 promotional purposes unless the manufacturer either on its own or in
279 concert with other persons has submitted a plan to the commissioner
280 for a system that reasonably enables the collection of such products. If
281 a mercury-added product is a component of another product, the
282 collection system shall provide for removal and collection of the
283 mercury-added component or collection of both the mercury-added
284 component and the product containing it.

285 (b) The collection system shall include (1) a public education
286 program to inform the public about the purpose of the collection
287 program and how to participate in it; (2) a targeted capture rate for the
288 mercury-added product or component; (3) a plan for implementing
289 and financing the collection system; (4) documentation of the
290 willingness of all parties to the system to implement the proposed
291 collection system; (5) a description of the performance measures to be
292 utilized and reported by the manufacturer to demonstrate that the
293 collection system is meeting capture rate targets; (6) a description of
294 additional or alternative actions that will be implemented to improve
295 the collection system and its operation in the event that the program
296 targets are not met; and (7) a recycling or disposal plan and an
297 identification of any regulatory impediments to such plan.

298 (c) Not later than January 1, 2004, and biennially thereafter, the
299 manufacturer or entity that submitted the plan on behalf of the
300 manufacturer shall submit a report to the commissioner and to the
301 regional, multi-state clearinghouse described in section 3 of this act on
302 the effectiveness of the collection system. The report shall include an
303 estimate of the amount of mercury that was collected, the capture rate
304 for the mercury-added products or components, the results of the
305 other performance measures included in the manufacturer's collection
306 system plan, and such other information as the commissioner may
307 require. The commissioner shall make such reports available to the
308 public.

309 (d) The cost for the collection system shall not be borne by state or
310 local government.

311 (e) The commissioner shall review any impediments identified
312 pursuant to subdivision (7) of subsection (b) of this section and the
313 regulations adopted under chapter 445 of the general statutes
314 governing handling of waste from mercury-added products and, if
315 necessary, may amend regulations as appropriate to facilitate
316 collection.

317 (f) The following are exempt from the provisions of this section: (1)
318 Formulated mercury-added products intended to be consumed in use,
319 including, but not limited to, reagents, cosmetics, pharmaceuticals and
320 other laboratory chemicals; (2) fabricated mercury-containing products
321 where the only mercury is contained in a component that cannot
322 feasibly be removed by the purchaser including, but not limited to,
323 liquid crystal display backlighting; (3) photographic film and paper;
324 and (4) any other product that contains less than ten milligrams of
325 mercury or for which the commissioner determines a collection plan is
326 not feasible because of the small number of such products.

327 Sec. 10. (NEW) (*Effective July 1, 2002*) No person shall offer for sale
328 or use by any means, including e-commerce, or distribute for
329 promotional purposes or provide elemental mercury without
330 providing a Material Safety Data Sheet, as defined in 42 USC 11049. On
331 and after July 1, 2003, the seller, distributor or provider shall require
332 the purchaser or recipient at the time of receipt of any elemental
333 mercury to sign a statement that the purchaser or recipient (1) will use
334 the mercury only for medical, dental amalgam dispose-caps, research
335 or manufacturing purposes; (2) understands that mercury is toxic and
336 that the purchaser will store and use it appropriately so that no person
337 is exposed to the mercury; and (3) will not place or allow anyone
338 under the control of the purchaser or recipient to cause the mercury to
339 become solid waste or be discharged into waters of the state or be
340 disposed of in a pollution abatement facility or subsurface sewage
341 disposal system.

342 Sec. 11. (NEW) (*Effective July 1, 2002*) Mercury-added products with
343 a code or date of manufacture indicating they were manufactured

344 prior to July 1, 2002, or mercury-added products for which the
 345 manufacturer provides documentation that the product was
 346 manufactured prior to July 1, 2002, are exempt from sections 5, 6, 8 and
 347 9 of this act.

348 Sec. 12. (NEW) (*Effective July 1, 2002*) (a) The commissioner, in
 349 consultation with other state agencies, may implement a
 350 comprehensive program for public education, outreach and assistance
 351 for manufacturers, households, waste generators, local and regional
 352 solid waste management agencies, businesses, health care facilities,
 353 scrap metal processors, recyclers, dismantlers, institutions, schools and
 354 other interested groups. Such program may focus on the hazards of
 355 mercury; the requirements and obligations of individuals,
 356 manufacturers and agencies under sections 1 to 11, inclusive, of this act
 357 and voluntary efforts that individuals, institutions and businesses can
 358 undertake to help further reduce mercury in the environment. The
 359 commissioner, in conjunction with manufacturers of mercury-added
 360 products and other affected businesses, may promote the development
 361 and implementation of such public education and technical assistance
 362 programs.

363 (b) The commissioner may cooperate with other states and
 364 provinces and regional organizations in developing public education,
 365 outreach and assistance programs.

366 (c) The commissioner may develop an awards program to recognize
 367 the accomplishments of manufacturers, municipalities, waste
 368 management facilities, waste recycling facilities, household hazardous
 369 waste collection facilities, or other persons who exceed the minimum
 370 requirements of sections 4 to 11, inclusive, of this act, and who excel at
 371 reducing or eliminating mercury in air emissions or releases.

This act shall take effect as follows:	
Section 1	<i>July 1, 2002</i>
Sec. 2	<i>July 1, 2002</i>
Sec. 3	<i>July 1, 2002</i>

Sec. 4	<i>July 1, 2002</i>
Sec. 5	<i>July 1, 2002</i>
Sec. 6	<i>July 1, 2002</i>
Sec. 7	<i>July 1, 2002</i>
Sec. 8	<i>July 1, 2002</i>
Sec. 9	<i>July 1, 2002</i>
Sec. 10	<i>July 1, 2002</i>
Sec. 11	<i>July 1, 2002</i>
Sec. 12	<i>July 1, 2002</i>

ENV *Joint Favorable Subst.*