



General Assembly

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Amendment

LCO No. 3969

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Offered by:

REP. PRELLI, 63rd Dist.

REP. PISCOPO, 76th Dist.

To: Subst. House Bill No. 5539

File No. 291

Cal. No. 176

(As Amended)

**"AN ACT CONCERNING MERCURY EDUCATION AND
REDUCTION."**

1 In sections 1 to 12, inclusive, change the effective date to "Effective
2 upon the participation by four of the six New England states in the
3 clearinghouse described in section 3 of this act and upon the enactment
4 by such states of legislation having like effect as section 8 of this act"

5 Strike subsection (a) of section 4 and insert the following in lieu
6 thereof:

7 "(a) On and after six months after the effective date of this act, no
8 person shall offer any mercury-added product for sale or use by any
9 means, including e-commerce, or distribute for promotional purposes
10 in this state unless the manufacturer gives prior notification in writing
11 to the commissioner or the regional, multi-state clearinghouse
12 described in section 3 of this act as provided in this section. Such

13 notification, in a form prescribed by the commissioner, shall at a
14 minimum include (1) a brief description of the product or category of
15 products to be offered for sale or use or distributed; (2) an
16 identification of each product by its mercury content in one of the
17 following ranges: Less than zero to five milligrams, greater than five
18 milligrams to ten milligrams, greater than ten milligrams to fifty
19 milligrams, greater than fifty milligrams to one hundred milligrams,
20 greater than one hundred milligrams to one thousand milligrams and
21 greater than one thousand milligrams; and (3) the name and address of
22 the manufacturer and the name, address and phone number of a
23 contact person at the manufacturer. The manufacturer shall revise the
24 information in the notification whenever there is significant change in
25 the information or when requested by the commissioner."

26 Strike section 5 and insert the following in lieu thereof:

27 "Sec. 5. (NEW) *(Effective upon the participation by four of the six New*
28 *England states in the clearinghouse described in section 3 of this act and upon*
29 *the enactment by such states of legislation having like effect as section 8 of this*
30 *act)* (a) Notwithstanding the provisions of section 6 of this act, on and
31 after one year after the effective date of this act, no person shall offer
32 for sale or use by any means, including e-commerce, or distribute for
33 promotional purposes in the state any mercury-added novelty. A
34 manufacturer that produces or sells mercury-added novelties shall
35 notify retailers that sell mercury-added novelties about such product
36 ban and inform such retailers of how to dispose of the remaining
37 inventory in accordance with chapter 445 of the general statutes.

38 (b) Notwithstanding the provisions of section 6 of this act, on and
39 after six months after the effective date of this act, no person shall offer
40 for sale or use by any means, including e-commerce, or distribute for
41 promotional purposes mercury fever thermometers except by
42 prescription written by a physician. A manufacturer of mercury fever
43 thermometers shall provide the buyer or the recipient with notice of
44 mercury content, instructions on proper disposal and instructions that
45 clearly describe how to carefully handle the thermometer to avoid

46 breakage and on proper cleanup should a breakage occur.

47 (c) Notwithstanding the provisions of section 6 of this act, on and
48 after one year after the effective date of this act, no person shall offer
49 for sale or use by any means, including e-commerce, or distribute for
50 promotional purposes mercury dairy manometers. A manufacturer
51 that produce or sell mercury dairy manometers shall notify retailers
52 about the provisions of this subsection and how to dispose of the
53 remaining inventory properly in accordance with chapter 445 of the
54 general statutes. The Commissioner of Environmental Protection, in
55 consultation with the Commissioner of Agriculture, shall examine the
56 feasibility of implementing a collection and replacement program for
57 dairy manometers, and shall implement such a program within
58 available appropriations."

59 Strike section 6 and insert the following in lieu thereof:

60 "Sec. 6. (NEW) *(Effective upon the participation by four of the six New*
61 *England states in the clearinghouse described in section 3 of this act and upon*
62 *the enactment by such states of legislation having like effect as section 8 of this*
63 *act)* (a) Except as provided in section 7 of this act, no person shall offer
64 for sale or use by any means, including e-commerce, or distribute for
65 promotional purposes any mercury-added product if: (1) After two
66 years after the effective date of this act, the mercury content of the
67 product exceeds one gram in the case of fabricated mercury-added
68 products or two hundred fifty parts per million in the case of
69 formulated mercury-added products; and (2) on and after four years
70 after the effective date of this act, the mercury content of the product
71 exceeds one hundred milligrams in the case of fabricated mercury-
72 added products or fifty parts per million in the case of formulated
73 mercury-added products.

74 (b) Not later than one year after the effective date of this act, the
75 commissioner shall convene a working group which shall include, but
76 not be limited to, government representatives from other northeastern
77 states to study and make recommendations regarding the regulation of

78 mercury-added products that have a mercury content in excess of ten
79 milligrams or ten parts per million but less than one hundred
80 milligrams or fifty parts per million.

81 (c) In the case of a product that contains one or more mercury-
82 added products as a component, the phase-out limits specified in
83 subsection (a) of this section apply to each component part or parts
84 and not to the entire product.

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

88 Strike section 8 and insert the following in lieu thereof:

89 "Sec. 8. (NEW) (*Effective upon the participation by four of the six New*
90 *England states in the clearinghouse described in section 3 of this act and upon*
91 *the enactment by such states of legislation having like effect as section 8 of this*
92 *act*) (a) On and after two years after the effective date of this act, no
93 person shall offer for sale or use by any means, including e-commerce,
94 or distribute for promotional purposes any mercury-added product
95 unless both the product and either its packaging or care and use
96 manual are labeled in accordance with this section, any regulations
97 adopted under this section or the terms of any approved alternative
98 labeling or notification granted under subsection (h) of this section. A
99 retailer shall not be found in violation of this subsection if the retailer
100 lacked knowledge that the product contained mercury.

101 (b) If a mercury-added product is a component of another product,
102 the product containing the component and the component shall both
103 be labeled as provided in this section, provided such component may
104 feasibly be removed from the product by the purchaser. The label on a
105 product containing a mercury-added component shall identify the
106 component with sufficient detail so that the component may be readily
107 located.

108 (c) All labels contained on packaging shall be clearly visible prior to

109 sale and shall be sufficient to inform the purchaser, using words or
110 symbols, that mercury is present in the product and that the product
111 should be properly disposed of or recycled.

112 (d) Labels affixed to the product shall be constructed of materials
113 that are sufficiently durable to remain legible for the useful life of the
114 product.

115 (e) On and after two years after the effective date of this act, any
116 person offering a mercury-added product for sale or use by any means,
117 including e-commerce, or distributing such product for promotional
118 purposes shall clearly advise in writing the purchaser or recipient
119 prior to the time of sale, use or distribution that the product contains
120 mercury. Such requirement shall apply to all transactions in which the
121 purchaser or recipient is unable to view the labels on the package or
122 the product prior to purchase or receipt, including, but not limited to,
123 catalog, telephone and e-commerce transactions.

124 (f) The manufacturer of a product shall be responsible for product
125 and package labels required under this section, unless the wholesaler
126 or retailer agrees in writing to accept the responsibility of
127 implementing an alternative to the labeling requirements of this
128 section provided such alternative is approved under subsection (h) of
129 this section.

130 (g) (1) Manufacturers shall meet all the requirements of this section
131 for large appliances, including, but not limited to, washers, dryers,
132 ovens, including microwave ovens, refrigerators, air conditioners,
133 dehumidifiers or portable heaters sold in a store where such appliance
134 is on display, except that no package labeling shall be required; (2)
135 manufacturers shall meet all the requirements of this section for
136 mercury fever thermometers, except that no product labeling shall be
137 required; (3) in the case of vehicles, (A) manufacturers shall meet the
138 product labeling requirements of this section for vehicles by placing a
139 label on the doorpost of the vehicles that lists the mercury-added
140 components that may be present in the vehicle, and (B) manufacturers

141 shall not be required to label the mercury-added components of the
142 vehicle; (4) manufacturers shall meet all the requirements of this section
143 for button cell batteries containing mercury, except that no product
144 labeling shall be required; and (5) in the case of products that contain
145 button cell batteries containing mercury as the only mercury
146 components, manufacturers shall meet the packaging requirements of
147 this section by including a label in the product instructions, if any, and
148 on the packaging, and no further product labeling shall be required.

149 (h) A manufacturer may apply to the commissioner and the
150 regional, multi-state clearinghouse described in section 3 of this act for
151 an alternative to the requirements of subsections (a) to (g), inclusive, of
152 this section if: (1) Compliance with the requirements is not feasible; (2)
153 the proposed alternative would be at least as effective in providing
154 presale notification of mercury content and in providing instructions
155 on proper disposal; or (3) federal law preempts state authority over
156 labeling."

157 Strike section 9 and insert the following in lieu thereof:

158 "Sec. 9. (NEW) *(Effective upon the participation by four of the six New*
159 *England states in the clearinghouse described in section 3 of this act and upon*
160 *the enactment by such states of legislation having like effect as section 8 of this*
161 *act)* (a) On and after one year after the effective date of this act, no
162 person shall offer any mercury-added product for sale or use by any
163 means, including e-commerce, or distribute any such product for
164 promotional purposes unless the manufacturer either on its own or in
165 concert with other persons has submitted a plan to the commissioner
166 for a system that reasonably enables the collection of such products. If
167 a mercury-added product is a component of another product, the
168 collection system shall provide for removal and collection of the
169 mercury-added component or collection of both the mercury-added
170 component and the product containing it.

171 (b) The collection system shall include (1) a public education
172 program to inform the public about the purpose of the collection

173 program and how to participate in it; (2) a targeted capture rate for the
174 mercury-added product or component; (3) a plan for implementing
175 and financing the collection system; (4) documentation of the
176 willingness of all parties to the system to implement the proposed
177 collection system; (5) a description of the performance measures to be
178 utilized and reported by the manufacturer to demonstrate that the
179 collection system is meeting capture rate targets; (6) a description of
180 additional or alternative actions that will be implemented to improve
181 the collection system and its operation in the event that the program
182 targets are not met; and (7) a recycling or disposal plan and an
183 identification of any regulatory impediments to such plan.

184 (c) Not later than one and one-half years after the effective date of
185 this act, and biennially thereafter, the manufacturer or entity that
186 submitted the plan on behalf of the manufacturer shall submit a report
187 to the commissioner and to the regional, multi-state clearinghouse
188 described in section 3 of this act on the effectiveness of the collection
189 system. The report shall include an estimate of the amount of mercury
190 that was collected, the capture rate for the mercury-added products or
191 components, the results of the other performance measures included in
192 the manufacturer's collection system plan, and such other information
193 as the commissioner may require. The commissioner shall make such
194 reports available to the public.

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

197 (e) The commissioner shall review any impediments identified
198 pursuant to subdivision (7) of subsection (b) of this section and the
199 regulations adopted under chapter 445 of the general statutes
200 governing handling of waste from mercury-added products and, if
201 necessary, may amend regulations as appropriate to facilitate
202 collection.

203 (f) The following are exempt from the provisions of this section: (1)
204 Formulated mercury-added products intended to be consumed in use,

205 including, but not limited to, reagents, cosmetics, pharmaceuticals and
206 other laboratory chemicals; (2) fabricated mercury-containing products
207 where the only mercury is contained in a component that cannot
208 feasibly be removed by the purchaser including, but not limited to,
209 liquid crystal display backlighting; (3) photographic film and paper;
210 and (4) any other product that contains less than ten milligrams of
211 mercury or for which the commissioner determines a collection plan is
212 not feasible because of the small number of such products."

213 Strike section 10 and insert the following in lieu thereof:

214 "Sec. 10. (NEW) (*Effective upon the participation by four of the six New*
215 *England states in the clearinghouse described in section 3 of this act and upon*
216 *the enactment by such states of legislation having like effect as section 8 of this*
217 *act*) No person shall offer for sale or use by any means, including e-
218 commerce, or distribute for promotional purposes or provide
219 elemental mercury without providing a Material Safety Data Sheet, as
220 defined in 42 USC 11049. On and after one year after the effective date
221 of this act, the seller, distributor or provider shall require the purchaser
222 or recipient at the time of receipt of any elemental mercury to sign a
223 statement that the purchaser or recipient (1) will use the mercury only
224 for medical, dental amalgam dispose-caps, research or manufacturing
225 purposes; (2) understands that mercury is toxic and that the purchaser
226 will store and use it appropriately so that no person is exposed to the
227 mercury; and (3) will not place or allow anyone under the control of
228 the purchaser or recipient to cause the mercury to become solid waste
229 or be discharged into waters of the state or be disposed of in a
230 pollution abatement facility or subsurface sewage disposal system."

231 Strike section 11 and insert the following in lieu thereof:

232 "Sec. 11. (NEW) (*Effective upon the participation by four of the six New*
233 *England states in the clearinghouse described in section 3 of this act and upon*
234 *the enactment by such states of legislation having like effect as section 8 of this*
235 *act*) Mercury-added products with a code or date of manufacture
236 indicating they were manufactured prior to the effective date of this

237 act, or mercury-added products for which the manufacturer provides
238 documentation that the product was manufactured prior to the
239 effective date of this act are exempt from sections 5, 6, 8 and 9 of this
240 act."