

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1661, sub-§3-A is enacted to read:

3-A. Mercury relay. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes mercury displacement relays, mercury wetted reed relays and mercury contact relays.

Sec. 2. 38 MRSA §1661, sub-§4, as enacted by PL 2001, c. 656, §1, is repealed and the following enacted in its place:

4. Mercury switch. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve. "Mercury switch" includes mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

Sec. 3. 38 MRSA §1661-C, sub-§5, as enacted by PL 2001, c. 620, §1, is amended to read:

5. Mercury-added thermostats. After January 1, 2006, a person may not sell or offer to sell or distribute for promotional purposes a mercury-added thermostat ~~except for a thermostat used for manufacturing or industrial purposes and~~ ~~except~~ for a thermostat used by a blind or visually impaired person. A manufacturer of mercury-added thermostats may apply to the commissioner prior to January 1, 2003 for an exemption from the provisions of this subsection for one or more specific uses of a mercury-added thermostat. The Commissioner of Environmental Protection may grant an exemption with or without conditions upon finding that:

A. The manufacturer has demonstrated that a system exists for the proper collection, transportation and processing of the mercury-added thermostat at the end of its life; and

B. The specific use or uses of the mercury-added thermostat provide a net benefit to the environment, public health or public safety when compared to available nonmercury alternatives.

For the purposes of this subsection, a "mercury-added thermostat" means a product or device that uses a mercury switch to sense and

control room temperature through communication with heating, ventilating or air-conditioning equipment. "Mercury-added thermostat" includes thermostats used to sense and control room temperature in residential, commercial, industrial and other buildings but does not include a thermostat used to sense and control temperature as part of a manufacturing process.

Sec. 4. 38 MRSA §1661-C, sub-§§6 to 8 are enacted to read:

6. Instruments and measuring devices. Effective July 1, 2006, a person may not sell or offer to sell or distribute the following mercury-added products:

- A. A barometer;
- B. An esophageal dilator, bougie tube or gastrointestinal tube;
- C. A flow meter;
- D. A hydrometer;
- E. A hygrometer or psychrometer;
- F. A manometer other than a manometer prohibited from sale under subsection 2;
- G. A pyrometer;
- H. A sphygmomanometer; or
- I. A thermometer other than a thermometer prohibited from sale under subsection 1.

This subsection does not apply to the sale of a mercury-added product listed in paragraphs A to I if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

7. Mercury switches and relays. Effective July 1, 2006, a person may not sell or offer to sell or distribute a mercury switch or mercury relay individually or as a product component. This prohibition does not apply if the switch or relay is used to replace a switch or relay that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- A. The larger product is used in manufacturing; or

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B. The switch or relay is integrated and not physically separate from other components of the larger product.

This subsection does not apply to the sale of a mercury switch or mercury relay if use of the switch or relay is required under federal law or federal contract specification.

8. Exemptions. Subsections 6 and 7 do not apply to the sale of a mercury-added product for which an exemption is obtained under this subsection. The manufacturer or user of the product may apply for an exemption by filing a written petition with the commissioner. The commissioner may grant an exemption with or without conditions upon finding that:

A. A system exists for the proper collection, transportation and processing of the product at the end of its life; and

B. One of the following applies:

(1) Use of the product provides a net benefit to the environment, public health or public safety when compared to available nonmercury alternatives; or

(2) Technically feasible nonmercury alternatives are not available at comparable cost.

Prior to approving an exemption, the commissioner shall consult with neighboring states, by means of the interstate clearinghouse under section 1671 or otherwise, to promote consistency in the way in which mercury-added products are regulated. Exemptions may be granted for a term not to exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of this subsection and the manufacturer or other persons comply with the conditions of its original approval. The board shall adopt rules for processing exemption applications that provide for public participation, taking into account the role of the interstate clearinghouse. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill bans the sale of mercury switches, mercury relays and certain mercury-added measuring devices and instruments effective July 1, 2006. The ban does not apply to the sale of mercury switches or mercury relays used as replacement parts in existing manufacturing equipment or in other equipment or machinery in which the switch or relay is integrated with other

components. Manufacturers and users of the targeted mercury-added products may apply to the Commissioner of Environmental Protection for an exemption from the sales prohibition.

The bill also clarifies the scope of the prohibition on the sale of mercury-added thermostats enacted by Public Law 2001, chapter 620, section 1.