

MAINE STATE LEGISLATURE

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L.D. 2084

DATE: 4/6/2000

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NATURAL RESOURCES

Reported by:

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 734, L.D. 2084, Bill, "An Act to Reduce the Release of Mercury into the Environment from Consumer Products"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 5 MRSA §12004-I, sub-§24-A is enacted to read:

<u>24-A.</u>	<u>Mercury</u>	<u>Legislative</u>	<u>38 MRSA</u>
<u>Environment:</u>	<u>Products</u>	<u>Per Diem</u>	<u>§1670</u>
<u>Natural</u>	<u>Advisory</u>	<u>and Expenses</u>	
<u>Resources</u>	<u>Committee</u>	<u>for</u>	
		<u>Legislators</u>	
		<u>and Expenses</u>	
		<u>Only for</u>	
		<u>Certain Members</u>	

Sec. 2. 38 MRSA c. 16-B is enacted to read:

CHAPTER 16-B

MERCURY-ADDED PRODUCTS AND SERVICES

§1661. Definitions

1. Mercury-added product. For the purposes of this chapter, unless the context otherwise indicates, "mercury-added product" means any of the following items if it contains mercury added during manufacture:

A. A thermostat or thermometer;

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- 2 B. An electrical switch, individually or as part of another product;
- 4 C. A medical or scientific instrument;
- 6 D. An electric relay or other electrical device, excluding an electrical device that is in a mercury-added lamp; and
- 8 E. A lamp.

§1662. Labeling and consumer information

12 1. Labeling required for certain products. Effective
 14 January 1, 2002, a manufacturer may not sell at retail in this
 16 State or to a retailer in this State, and a retailer may not
 18 knowingly sell, a mercury-added product unless the item is
 20 labeled pursuant to this subsection. The label must clearly
 22 inform the purchaser or consumer that mercury is present in the
 24 item and that the item may not be disposed of or placed in a
 waste stream destined for disposal until the mercury is removed
 and reused, recycled or otherwise managed to ensure that it does
 not become part of solid waste or wastewater. Manufacturers
 shall affix to mercury-added products labels that conform to the
 requirements of this subsection.

26 The board shall adopt rules to establish standards for affixing
 28 labels to the product and product package. The rules must strive
 30 for consistency with labeling programs in other states and
 32 provide for approval of alternative compliance plans by the
 department. Rules adopted pursuant to this section are routine
 technical rules as defined in Title 5, chapter 375, subchapter
 II-A.

34 This subsection does not apply to mercury-added lamps.

36 2. Mercury-added lamps; large use applications. A person
 38 who sells mercury-added lamps to the owner or manager of an
 40 industrial, commercial or office building or to any person who
 42 replaces or removes from service outdoor lamps that contain
 44 mercury shall clearly inform the purchaser in writing on the
 46 invoice for the lamps or in a separate document that the lamps
 contain mercury, a hazardous substance that is regulated by
 federal and state law, and that they may not be placed in solid
 waste destined for disposal. Retail establishments that
 incidentally sell mercury-added lamps to the specified purchasers
 are exempt from the requirements of this subsection.

48 A person who contracts with the owner or manager of an
 50 industrial, commercial or office building or with a person
 responsible for outdoor lighting to remove from service

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2 mercury-added lamps shall clearly inform in writing the person
3 for whom the work is being done that the lamps being removed from
4 service contain mercury and what the contractor's arrangements
5 are for the management of the mercury in the removed lamps.

6 **§1663. Disposal ban**

8 After July 15, 2002, a person may not knowingly place a
9 mercury-added product in solid waste for disposal in a solid
10 waste disposal facility. This section may not be construed to
11 affect existing laws, rules or regulations governing disposal of
12 mercury-added products prior to July 15, 2002.

14 **§1664. Source separation**

16 **1. Removal from service; products containing mercury.** When
17 a mercury-added product is removed from service, the mercury in
18 the item must be reused, recycled or otherwise managed to ensure
19 compliance with section 1663.

20 A person who is in the business of replacing or repairing a
21 mercury-added product in households shall ensure, or deliver the
22 item to a facility that will ensure, that the mercury contained
23 in an item that is replaced or repaired is reused, recycled or
24 otherwise managed in compliance with section 1663.

25 **2. Thermostats.** A manufacturer of thermostats that contain
26 mercury or a manufacturer of thermostats that may replace
27 thermostats that contain mercury shall, in addition to the
28 requirements of section 1662, provide incentives for and
29 sufficient information to purchasers and consumers of the
30 thermostats for the purchasers or consumers to ensure that
31 mercury in thermostats being removed from service is reused,
32 recycled or otherwise managed in compliance with section 1663. A
33 manufacturer that has complied with this subsection is not liable
34 for improper disposal by purchasers or consumers of thermostats.
35 Manufacturer collection programs conducted in accordance with
36 universal waste rules adopted by the department meet the
37 requirements of this subsection.

40 **§1665. Automobile component parts**

41 Notwithstanding sections 1662 and 1664, these sections do
42 not apply to mercury-added products, including mercury-added
43 lamps, that are components in automobiles until July 15, 2002. A
44 plan for compliance with these sections as they relate to
45 automobile components must be developed pursuant to this section.
46

47 By January 1, 2001, automobile manufacturers that sell
48 automobiles at retail in this State or to a retailer in this
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2 State shall submit proposed alternative compliance plans to the
3 department. By January 1, 2002, the department shall submit to
4 the joint standing committee of the Legislature having
5 jurisdiction over natural resources matters a plan for the
6 labeling and source separation of automobile component parts to
7 meet the requirements in sections 1662 and 1664. The department
8 shall develop the plan in consultation with automobile
9 manufacturers, automobile dismantlers, automobile recyclers and
10 other interested parties. The plan may provide for alternative
11 compliance plans for labeling and must provide for the safe
12 removal and management of mercury-added parts prior to the
13 shredding of vehicles. The department shall also develop, in
14 consultation with the interested parties, an assessment of
15 whether and how mercury switches or other electrical devices in
16 automobile components should be added to the universal waste
17 rules adopted by the board and submit the assessment with the
18 plan.

19
20 In deciding whether to approve an alternative compliance
21 plan for labeling of automobile components, the department may
22 consider the extent to which the plan provides for identification
23 of mercury-added components in vehicles assembled before July 15,
24 2002.

25 **§1666. Household hazardous waste exemption**

26
27 A person who uses mercury-added products in that person's
28 home is not subject to the provisions of section 1663 or 1664
29 until January 1, 2005 with respect to those products the person
30 uses in that person's home and is not subject to fines or
31 penalties for noncompliance with the provisions of section 1663
32 or 1664 with respect to those products the person uses in that
33 person's home.

34 **§1667. Dental procedures**

35
36 By July 15, 2002, the department shall work with dentists
37 and other interested parties to develop a pollution prevention
38 plan for mercury from dental procedures that provides for
39 reasonable measures to reduce mercury pollution from dental
40 procedures and related sources. The plan must include options
41 and strategies for implementing source reduction.

42 **§1668. Education program**

43
44 The department and the Executive Department, State Planning
45 Office shall implement an education program relating to
46 mercury-added products no later than January 1, 2001. The
47 program must provide information to the public about labeled
48 mercury-added products, the requirements of the law regarding the
49
50

source separation of waste mercury-added products and collection programs that are available to the public.

§1669. Technical assistance to municipalities

The department shall coordinate with the Executive Department, State Planning Office to assist interested municipalities and regional associations in developing collection programs for mercury-added products.

§1670. Mercury Products Advisory Committee

The Mercury Products Advisory Committee, established by Title 5, section 12004-I, subsection 24-A and referred to in this section as the "committee," shall advise the department, the Executive Department, State Planning Office and the Legislature on further actions needed to prevent and reduce environmental releases of mercury from consumer products.

1. Appointment; composition. The committee consists of the following 13 members:

A. Two members from the Senate who are members of the joint standing committee of the Legislature having jurisdiction over natural resources matters, one appointed by the President of the Senate and one appointed by the Senate Minority Leader;

B. Two members from the House of Representatives who are members of the joint standing committee of the Legislature having jurisdiction over natural resources matters, one appointed by the Speaker of the House of Representatives and one appointed by the House Minority Leader;

C. Four members representing the business community, at least one of whom is an owner or represents an owner of a small business, appointed by the Governor;

D. Two members representing environmental organizations, appointed by the Governor;

E. Two members representing municipalities, appointed by the Governor; and

F. One member representing the general public, appointed by the Governor.

2. Terms. Except for the Legislators, who serve terms coincident with their legislative terms, all members are appointed for 3-year terms. A vacancy must be filled by the same

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2 appointing authority that made the original appointment.
Appointed members may not serve more than 2, 3-year terms.

4 3. Compensation. Legislative members are entitled to
6 receive the legislative per diem, as defined in Title 3, section
2, and all members are entitled to reimbursement for expenses
8 according to Title 5, section 12004-I, subsection 24-A.

10 4. Quorum; actions. A quorum is a majority of the members
12 of the committee. An affirmative vote of the majority of the
members present at a meeting is required for any action. Action
may not be considered unless a quorum is present.

14 5. Chairs. The first-appointed Senate member is the Senate
16 chair of the committee and the first-appointed House of
Representatives member is the House chair of the committee.

18 6. Meetings. The committee shall meet at least 4 times per
20 year and at any time at the call of the chairs or upon written
request to the chairs by 4 of the voting members.

22 7. Staff support. The commissioner shall provide the
24 committee with staff support.

26 8. Duties; powers. The committee shall:

28 A. Provide assessment, advice and recommendations on
emerging policy concerns or on adjustments to existing
30 programs related to mercury-added products;

32 B. Assess the feasibility of establishing, and foster
establishment if possible, of consumer education and
34 collection programs for mercury-added products that would
achieve, but not be limited to, the following:

36 (1) Contracts by waste management firms that would
38 provide comprehensive collection, transportation,
storage, record keeping and recycling of mercury-added
40 products used by industrial, commercial, office and
other large users;

42 (2) Recovery and recycling of at least 70% of the
44 mercury-added lamps in the State;

46 (3) Education and outreach programs to promote the use
of energy-saving fluorescent lighting, the availability
48 of waste management service contracts for recycling of
mercury-added lamps and other mercury-added products
and the environmental importance and market

2 availability of low-mercury models of fluorescent
3 lamps; and

4 (4) Conversion of at least 70% of the mercury-added
5 lamps in the State to low-mercury models;

6
7 C. Report annually beginning January 15, 2002 to the joint
8 standing committee of the Legislature having jurisdiction
9 over natural resources matters on the effectiveness and
10 extent of established programs for the collection,
11 transportation and recycling of mercury-added products and
12 on the performance of such systems in achieving the goals
13 identified in paragraph B;

14
15 D. Include in its 2002 annual report an assessment of
16 whether and how mercury switches or other electrical
17 devices, other than those in automobile components, should
18 be added to the universal waste rules adopted by the board;
19 and

20
21 E. Include in its 2004 annual report an assessment and
22 recommendations relating to collection and recycling
23 programs for mercury-added products, including the following:

24
25 (1) An assessment of how well collection and recycling
26 programs in the State are performing in comparison to
27 programs established in other states with
28 recommendations for improvements;

29
30 (2) An assessment of existing programs and
31 infrastructure, and the costs and feasibility of
32 expanded programs and infrastructure, for the
33 collection and recycling of mercury-added products used
34 by municipalities and households, with recommendations
35 on whether additional municipal and regional solid
36 waste collection facilities should be established to
37 facilitate residential and municipal recycling of
38 mercury-added products; and

39
40 (3) Recommendations on whether manufacturers of
41 mercury-added products should be required to establish
42 programs for collection from users. Any such
43 recommendation should be based on an assessment of the
44 effectiveness of fee-for-service private-sector
45 programs that may have been established for the
46 collection, transportation and recycling of
47 mercury-added products.

48
49 9. Repeal date. This section is repealed August 1, 2006.
50

2 **Sec. 3. 38 MRSA §2133, sub-§2-B**, as enacted by PL 1995, c.
465, Pt. A, §46 and affected by Pt. C, §2, is amended to read:

4 **2-B. Household hazardous waste collection.** The office may,
6 within available resources, award grants to eligible
municipalities, regional associations, sanitary districts and
8 sewer districts for household hazardous waste collection and
disposal programs. In implementing this program, the office
shall attempt to:

10 A. Coordinate the household hazardous waste collection
12 programs with overall recycling and waste management;

14 B. Encourage regional economies of scale;

16 C. Coordinate programs between private and public
18 institutions; and

20 D. Maximize opportunities for federal grants and pilot
programs; and

22 E. By January 1, 2002 and as necessary thereafter, fund
24 capital improvements and operating expenses to facilitate
the development of collection programs throughout the State
26 for hazardous waste that is universal waste, as identified
in board rules, generated by households, small-quantity
28 generators, public schools and municipalities.

30 At a minimum, the office shall award grants to public schools and
municipalities for reasonable costs incurred as a result of
32 managing waste mercury-added products generated by those public
schools and municipalities, in compliance with the requirements
34 in sections 1663 and 1664, that would not otherwise be incurred
by complying with existing laws, rules or regulations as of July
36 15, 2002.

38 **Sec. 4. 38 MRSA §2304-A, sub-§2, ¶¶L and M**, as enacted by PL
1999, c. 348, §7, are amended to read:

40 L. Zinc emissions from tire burning; and

42 M. Sulfuric acid emissions from burning fuel that is
44 approved by the department; and

46 **Sec. 5. 38 MRSA §2304-A, sub-§2, ¶N** is enacted to read:

48 N. Lamps, mercury-containing thermostats, polychlorinated
biphenyl ballast and batteries defined as universal waste in
50 40 Code of Federal Regulations, Section 273.2.

2 **Sec. 6. Report on mercury releases into environment and mercury**
3 **collection programs; legislation.** The Department of Environmental
4 Protection shall submit a report by January 15, 2002 to the joint
5 standing committee of the Legislature having jurisdiction over
6 natural resources matters on the status of mercury releases into
7 the environment. The report must include the following: an
8 inventory of mercury releases into the air, water and land; the
9 sources of mercury released into the environment, including
10 natural sources; a summary of regional efforts to reduce releases
11 of mercury into the environment; an assessment of the feasibility
12 of reducing mercury pollution from crematoriums; and an estimate
13 of the economic impact of the ban on disposal of low-mercury
14 lamps, including the economic impact related to infrastructure,
15 training and education.

16 The department shall also include in its report an
17 assessment of the extent to which the infrastructure has been
18 developed to enable collection and recycling of mercury-added
19 lamps.

20 The joint standing committee of the Legislature having
21 jurisdiction over natural resources matters has authority to
22 report out a bill to the Second Regular Session of the 120th
23 Legislature relating to mercury releases and programs for the
24 collection, transportation, recycling and disposal of
25 mercury-added products.

26 **Sec. 7. Appropriation.** The following funds are appropriated
27 from the General Fund to carry out the purposes of this Act.

		2000-01
32	LEGISLATURE	
34	Legislature	
36	Personal Services	\$880
38	All Other	2,600
40	Provides funds for the per diem and expenses of legislative members and the expenses of other eligible members of the Mercury Products Advisory Committee.	
46	LEGISLATURE	
48	TOTAL	\$3,480

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will have declined significantly and one of the Environmental Specialist III positions will no longer be needed.

The additional costs associated with working with the Department of Environmental Protection to develop an education program relating to mercury-added products and to work with the department to provide technical assistance to municipalities in developing collection programs for mercury-added products can be absorbed by the State Planning Office utilizing existing budgeted resources.

The State Planning Office within the Executive Department will incur additional future Other Special Revenue funds costs, estimated to be \$30,000 in each of fiscal years 2002-03 and 2003-04, to award grants from the Maine Solid Waste Management Fund to public schools and municipalities to cover the costs of managing waste mercury-added programs. The amount of grant awards after fiscal year 2003-04 can not be determined at this time.

This bill also includes a General Fund appropriation of \$3,480 in fiscal year 2000-01 for the Legislature for the per diem and expenses of legislative members and expenses of other eligible members of the Mercury Products Advisory Committee. The estimated future costs beginning in fiscal year 2001-02 will be approximately \$3,980.

This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.36 per day per prisoner. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.'

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill. The amendment defines mercury-added products as the following products if they contain mercury added during manufacture: thermostats and thermometers, electrical switches, medical or scientific instruments, electrical devices and lamps. The amendment requires, beginning January 1, 2002, the labeling of mercury-added products other than mercury-added lamps sold in the State with a label that

2 informs the purchaser or consumer that mercury is present in the
item and that the item may not be disposed of until the mercury
4 is removed and reused, recycled or otherwise managed. The
amendment requires a seller of mercury-added lamps to commercial,
6 industrial or other large users to provide information on the
invoice or in a separate document to inform the purchaser that
8 the lamps contain mercury and may not be placed in solid waste
destined for disposal.

10 The amendment bans the disposal of mercury-added products in
a solid waste disposal facility after July 15, 2002 and exempts
12 mercury-added products used in households from that ban until
January 1, 2005. The amendment requires a waste mercury-added
14 product to be reused, recycled or otherwise managed to ensure
that the product is not disposed of in violation of the ban.

16 The amendment exempts automobile component parts from the
labeling requirement and the source separation requirement until
18 July 15, 2002 and requires the Department of Environmental
Protection to develop, in consultation with the automobile
20 manufacturers and other interested parties, a plan for compliance
with those requirements as they relate to automobile components.
22 The amendment also requires the department to work with dentists
to develop a pollution prevention plan for mercury from dental
24 procedures by July 15, 2002.

26 The amendment requires the department and the Executive
Department, State Planning Office to implement an education
28 program relating to mercury-added products no later than January
1, 2001 and to assist interested municipalities and regional
30 associations in developing collection programs for mercury-added
products.

34 The amendment establishes the Mercury Products Advisory
Committee to advise the department, the State Planning Office and
36 the Legislature on further actions needed to prevent and reduce
environmental releases of mercury from consumer products and
38 requires the committee to report annually beginning January 15,
2002 to the joint standing committee of the Legislature having
40 jurisdiction over natural resources matters on the effectiveness
and extent of established programs for the collection,
42 transportation and recycling of mercury-added products. The
amendment repeals the Mercury Products Advisory Committee in 2006.

44 The amendment specifies that the State Planning Office shall
46 attempt, through the awarding of household hazardous waste
grants, to fund capital improvements and operating expenses to
48 facilitate the development of collection programs throughout the
State for universal waste generated by households, small-quantity
50 generators, public schools and municipalities. It requires the

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2 State Planning Office, at a minimum, to award grants to public
schools and municipalities for reasonable additional costs
4 incurred as a result of managing waste mercury-added products
generated by them, in compliance with the disposal ban and the
source separation requirement.

6
8 The amendment requires the department to submit a report by
January 15, 2002 to the joint standing committee of the
10 Legislature having jurisdiction over natural resources matters on
the status of mercury releases into the environment and an
12 assessment of the extent to which the infrastructure has been
developed to enable collection and recycling of mercury-added
lamps. The amendment authorizes that committee to report out a
14 bill to the Second Regular Session of the 120th Legislature
relating to mercury releases and collection programs for
16 mercury-added products.

18 The amendment also exempts lamps, mercury-containing
thermostats, polychlorinated biphenyl ballast and certain
20 batteries from the planning, reporting and fee requirements under
the laws relating to toxics use, toxics release and hazardous
22 waste reduction.

24 The amendment also adds an appropriation section, an
allocation section and a fiscal note to the bill.