

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1159

H.P. 856

House of Representatives, March 4, 2003

### An Act To Reduce Mercury Use in Measuring Devices and Switches

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Reported by Representative KOFFMAN of Bar Harbor for the Joint Standing Committee on Natural Resources pursuant to Public Law 2001, chapter 620.

Reference to the Committee on Natural Resources suggested and ordered printed under Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

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

6 3-A. Mercury relay. "Mercury relay" means a mercury-added  
8 product or device that opens or closes electrical contacts to  
10 effect the operation of other devices in the same or another  
12 electrical circuit. "Mercury relay" includes mercury  
14 displacement relays, mercury wetted reed relays and mercury  
16 contact relays.

18 **Sec. 2. 38 MRSA §1661, sub-§4**, as enacted by PL 2001, c. 656,  
20 §1, is repealed and the following enacted in its place:

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

40 **Sec. 3. 38 MRSA §1661-C, sub-§5**, as enacted by PL 2001, c.  
42 620, §1, is amended to read:

44 **5. Mercury-added thermostats.** After January 1, 2006, a  
46 person may not sell or offer to sell or distribute for  
48 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

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

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

10 **6. Instruments and measuring devices.** Effective July 1,  
11 2006, a person may not sell or offer to sell or distribute the  
12 following mercury-added products:

14 A. A barometer;

16 B. An esophageal dilator, bougie tube or gastrointestinal  
17 tube;

18 C. A flow meter;

20 D. A hydrometer;

22 E. A hygrometer or psychrometer;

24 F. A manometer other than a manometer prohibited from sale  
26 under subsection 2;

28 G. A pyrometer;

30 H. A sphygmomanometer; or

32 I. A thermometer other than a thermometer prohibited from  
34 sale under subsection 1.

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

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

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

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

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

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

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

17           B.    One of the following applies:

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

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

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

41                                   **SUMMARY**

42  
43           This bill bans the sale of mercury switches, mercury relays  
44           and certain mercury-added measuring devices and instruments  
45           effective July 1, 2006. The ban does not apply to the sale of  
46           mercury switches or mercury relays used as replacement parts in  
47           existing manufacturing equipment or in other equipment or  
48           machinery in which the switch or relay is integrated with other  
49

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

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