

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1338

S.P. 465

In Senate, March 17, 2005

An Act To Limit Human Exposure to Mercury

Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DAMON of Hancock.

Cosponsored by Senators: BARTLETT of Cumberland, BRENNAN of Cumberland, MARTIN of Aroostook, MAYO of Sagadahoc, STRIMLING of Cumberland, Representatives: ADAMS of Portland, TWOMEY of Biddeford.

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

Sec. 1. 38 MRSA §1667-A is enacted to read:

§1667-A. Transition to mercury-free dentistry

1. Filling material; consumer choice. By July 1, 2006, all state and local government dental plans, Medicaid and private-sector dental plans must provide consumer choice in filling materials. If the costs of different kinds of fillings are different, the 3rd-party payor may limit coverage to the cost of the lowest-priced filling. The patient is allowed to have a higher-priced filling and pay the difference.

2. Dental schools. Beginning in January 2006, schools that offer training in dentistry, including dental hygiene and dental assisting, shall teach the risks of exposure to mercury in dental offices and dental laboratories.

3. Immunity from liability. Dentists and dental offices as defined in section 1667, subsection 2 have immunity from liability as a result of any mercury fillings placed in patients' teeth through June 30, 2006 if the dentists give to patients, as required by law, the disclosure statement, "Fillings: The Choice You Have: Mercury Amalgam and Other Filling Materials," published by the Department of Health and Human Services, Bureau of Health. This immunity does not exist with respect to any mercury amalgam placed in patients' teeth after June 30, 2006.

4. Prohibited. After January 1, 2007, a dentist or a dental office in the State may not place a mercury filling in a tooth of a child who has not reached 6 years of age or in a tooth of a pregnant woman. After January 1, 2008, a dentist or a dental office in the State may not place mercury fillings in patients' teeth.

5. Education. The department shall coordinate the development of an education, outreach and assistance program for dentists to discourage the environmental release and use of dental mercury.

6. Annual report. A dentist or a dental office in the State shall submit an annual report to the department describing the quantities of mercury amalgam purchased, used and recycled from dry sources and wet sources.

7. Rules. The department shall establish rules for dental offices to limit mercury releases relative to:

A. Adherence to best management practices;

2 B. The use of chairside traps to capture and collect
4 mercury;

6 C. The use of advanced filtration technology;

8 D. The recycling of used dental mercury amalgam capsules
10 generated from a dental facility;

12 E. Cleaning and replacing mercury-laden pipes and plumbing
14 fixtures;

16 F. Enforcement of the routine monitoring of amalgam
18 separator systems, pursuant to section 1667, subsection 3;
20 and

22 G. Managing surplus quantities of dental or elemental
24 mercury properly.

26 Rules adopted pursuant to this subsection are routine technical
28 rules as defined in Title 5, chapter 375, subchapter 2-A.

30 8. Enforcement. The department is responsible for ensuring
32 that all dental clinics that place or remove mercury amalgam
34 fillings comply with all the provisions of this section.

36 9. Penalty. A person who violates this section or rules
38 adopted pursuant to this section commits a civil violation for
40 which a fine of not less than \$10,000 nor more than \$100,000 may
42 be adjudged.

44 This section does not apply to manufacturers of mercury
46 amalgam or national or state dental associations.

48 **Sec. 2. Septic system study.** The Department of Environmental
Protection shall conduct and oversee a study to determine the
environmental impact of dental mercury released in rural septic
systems.

SUMMARY

This bill requires the elimination of mercury in dental
offices over a 3-year period. The bill also requires dental
schools to include in their curricula by January 2006 the risks
of exposure to mercury.

The bill also requires a dental office to post in the office
the disclosure statement published by the Department of Health

2 and Human Services, Bureau of Health on the risks of having
mercury fillings.

4 The bill also requires the Department of Environmental
Protection to develop an education, outreach and assistance
6 program for dentists. The bill requires dentists to file an
annual report with the department describing the quantities of
8 mercury amalgam purchased, used and recycled from dry sources and
wet sources.

10
The bill requires the Department of Environmental Protection
12 to establish rules for dental offices to limit mercury releases.

14 The bill establishes a penalty in the amount of not less
than \$10,000 nor more than \$100,000 for a violation.

16
The bill also requires the Department of Environmental
18 Protection to conduct a septic system study concerning the impact
of dental mercury releases in rural areas.