

MAINE STATE LEGISLATURE

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No. 637

H.P. 486

House of Representatives, February 8, 2007

An Act To Limit Mercury Exposure

(EMERGENCY)

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLEARY of Houlton.
Cosponsored by Senator MARTIN of Aroostook and
Representatives: HARLOW of Portland, HAYES of Buckfield, SUTHERLAND of Chapman,
WAGNER of Lewiston.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** mercury amalgam fillings are unsafe for humans and the environment;
4 and

5 **Whereas,** it is imperative that the use of mercury amalgam fillings be stopped as
6 soon as possible; and

7 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
8 the meaning of the Constitution of Maine and require the following legislation as
9 immediately necessary for the preservation of the public peace, health and safety; now,
10 therefore,

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

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

13 **§1667-A. Transition to mercury-free dentistry**

14 **1. Filling material; consumer choice.** By July 1, 2008, all state and local
15 government dental plans, Medicaid and private-sector dental plans must provide
16 consumer choice in filling materials. If the costs of different kinds of fillings are
17 different, the 3rd-party payor may limit coverage to the cost of the lowest-priced filling.
18 The patient is allowed to have a higher-priced filling and pay the difference.

19 **2. Dental schools.** Beginning in January 2008, schools that offer training in
20 dentistry, including dental hygiene and dental assisting, shall teach the risks of exposure
21 to mercury in dental offices and dental laboratories.

22 **3. Immunity from liability.** Dentists and dental offices as defined in section 1667,
23 subsection 2 have immunity from liability as a result of any mercury fillings placed in
24 patients' teeth through June 30, 2008 if the dentists give to patients, as required by law,
25 the disclosure statement, "Fillings: The Choice You Have: Mercury Amalgam and
26 Other Filling Materials," published by the Department of Health and Human Services,
27 Maine Center for Disease Control and Prevention. This immunity does not exist with
28 respect to any mercury amalgam placed in patients' teeth after June 30, 2008.

29 **4. Prohibited.** After January 1, 2009, a dentist or a dental office in the State may
30 not place a mercury filling in a tooth of a child who has not reached 6 years of age or in a
31 tooth of a pregnant woman. After January 1, 2010, a dentist or a dental office in the State
32 may not place mercury fillings in patients' teeth.

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

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

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

6 A. Adherence to best management practices;

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

8 C. The use of advanced filtration technology;

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

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

12 F. Enforcement of the routine monitoring of amalgam separator systems, pursuant to
13 section 1667, subsection 3; and

14 G. Managing surplus quantities of dental or elemental mercury properly.

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

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

20 9. Penalty. A person who violates this section or rules adopted pursuant to this
21 section commits a civil violation for which a fine of not less than \$10,000 nor more than
22 \$100,000 may be adjudged.

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

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

28 **Emergency clause.** In view of the emergency cited in the preamble, this
29 legislation takes effect when approved.

30 SUMMARY

31 This bill requires the elimination of mercury in dental offices over a 3-year period.
32 The bill also requires dental schools to include in their curricula by January 2008 the risks
33 of exposure to mercury.

34 The bill also requires a dental office to post in the office the disclosure statement
35 published by the Department of Health and Human Services, Bureau of Health on the
36 risks of having mercury fillings.

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

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

7 The bill establishes a penalty in the amount of not less than \$10,000 nor more than
8 \$100,000 for a violation.

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