

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

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SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2006

CHAPTER 558

S.P. 709 - L.D. 1792

**An Act To Protect Maine Families
and the Environment by Improving
the Collection and Recycling of
Mercury Thermostats**

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

Sec. 1. 38 MRSA §1665-B is enacted to read:

§1665-B. Mercury-added thermostats

1. Definition. For purposes of this section, "mercury-added thermostat" means a mercury-added thermostat as defined in section 1661-C, subsection 5.

2. Manufacturer responsibility. Each manufacturer of mercury-added thermostats that have been sold in this State shall, individually or collectively:

A. Establish and maintain a collection and recycling program for out-of-service mercury-added thermostats. The collection and recycling program must be designed and implemented to ensure that:

(1) A maximum rate of collection of mercury-added thermostats is achieved;

(2) Handling and recycling of mercury-added thermostats are accomplished in a manner that is consistent with section 1663, with other provisions of this chapter and with the universal waste rules adopted by the board pursuant to section 1319-O;

(3) Authorized bins for mercury-added thermostat collection are made available at all heating, ventilation and air conditioning supply, electrical supply and plumbing supply distributor locations that sell thermostats; and

(4) By January 1, 2007, authorized bins for mercury-added thermostat collection are made available to municipalities and regions requesting bins for mercury-added thermostat collection at universal waste collection sites or at periodic household hazardous waste collection events, as long as the collection sites or events are approved by the department for mercury-added thermostat collections;

B. Work cooperatively with the department and others in accordance with subsection 4 to estab-

lish appropriate systems in order to implement the plan developed pursuant to subsection 4;

C. Within 3 months after the department develops phase one of the plan required by subsection 4, implement phase one of the plan;

D. Within 3 months after the department develops phase 2 of the plan required by subsection 4, implement phase 2 of the plan;

E. Within 3 months after the department develops phase one of the plan required by subsection 4, provide a financial incentive with a minimum value of \$5 for the return of each mercury-added thermostat by a contractor or service technician to an established recycling collection point;

F. Within 3 months after the department develops phase 2 of the plan required by subsection 4, provide a financial incentive with a minimum value of \$5 for the return of each mercury-added thermostat by a homeowner to an established recycling collection point; and

G. Beginning in 2008, submit an annual report to the department by January 30th of each year that includes at a minimum:

(1) The number of mercury-added thermostats collected and recycled by that manufacturer pursuant to this section during the previous calendar year;

(2) The estimated total amount of mercury contained in the thermostat components collected by that manufacturer pursuant to this section;

(3) An evaluation of the effectiveness of the manufacturer's collection and recycling program and the financial incentive provided pursuant to paragraphs E and F; and

(4) An accounting of the administrative costs incurred in the course of administering the collection and recycling program and the financial incentive plan developed pursuant to subsection 4.

3. Sales prohibition. Within 3 months after phase 2 of the plan required by subsection 4 has been developed, the following sales prohibitions apply to manufacturers, wholesalers and retailers of thermostats:

A. A manufacturer not in compliance with this section is prohibited from offering any thermostat for sale in the State. A manufacturer not in compliance with this section shall provide the necessary support to retailers to ensure the manu-

facturer's thermostats are not offered for sale in this State; and

B. A wholesaler or retailer may not offer for sale in this State any thermostat of a manufacturer that is not in compliance with this section.

4. Financial incentive plan. The department shall develop a manufacturer financial incentive plan in 2 phases. By January 1, 2007, the department shall develop phase one of the plan, which must address collection of mercury-added thermostats from contractors and service technicians. By August 1, 2007, the department shall develop phase 2 of the plan, which must address collection of mercury-added thermostats from homeowners. The plan must be developed in consultation with a stakeholder group that includes representatives from the thermostat industry, environmental groups, thermostat wholesalers and service contractors. The plan must be developed in a manner that ensures to the maximum extent practical that:

A. The capture rate of out-of-service mercury-added thermostats is maximized;

B. Adequate incentives and education are provided to contractors, service technicians and homeowners to encourage return of thermostats to established recycling collection points;

C. Administrative costs of the plan are minimized;

D. The plan encourages the purchase of nonmercury thermostats qualified by the United States Environmental Protection Agency's Energy Star program as replacements for mercury-added thermostats; and

E. Mechanisms are in place to protect against the fraudulent return of thermostats.

The plan must include a requirement that manufacturers provide a financial incentive with a minimum value of \$5 for the return of each mercury-added thermostat to an established recycling collection point in accordance with subsection 2, paragraphs E and F. The financial incentive may include, without limitation, cash, rebates, discounts, coupons or other incentives.

5. Goals. The goal of the collection and recycling efforts under this section is to collect and recycle at least 125 pounds of mercury per year from mercury-added thermostats within 2 years after the development of phase one of the plan required by subsection 4 and at least 160 pounds of mercury per year within 3 years after the development of phase 2 of the plan required by subsection 4.

6. Report. By March 15, 2007 and annually thereafter, the department shall submit a report on the collection and recycling of mercury-added thermostats in the State to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report due in 2007 must include a description and discussion of the financial incentive plan established under this section and recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats. Subsequent reports must include an evaluation of the effectiveness of the thermostat collection and recycling programs established under this section, information on actual collection rates and recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats.

Sec. 2. Authority to report legislation.

The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation to the First Regular Session of the 123rd Legislature in connection with the report required pursuant to the Maine Revised Statutes, Title 38, section 1665-B, subsection 6.

See title page for effective date.

CHAPTER 559

S.P. 693 - L.D. 1776

An Act To Establish the Maine Agricultural Water Management Board and the Sustainable Agricultural Water Source Program

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

Whereas, the Legislature declares its intent that the State plan, regulate and control the prudent use of the waters of the State under the Laws of Maine to protect the public health, safety and welfare; and

Whereas, the Legislature finds that the use of water resources for the State for agricultural purposes is of vital importance to the food security and economic well-being of the State; and

Whereas, the health, safety and food security of the people of the State require adequate and affordable local agricultural products and services from Maine farmers; and

Whereas, the Legislature finds the protection of the rivers, streams and brooks necessary for a healthy riverine ecosystem and a healthy population of aquatic life; and