

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

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

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**Augusta, Maine**  
**2009**

may agree to hospitalization or may be subject to an application for readmission under paragraph B.

See title page for effective date.

## CHAPTER 277

### H.P. 717 - L.D. 1042

#### An Act To Continue To Reduce Mercury Use and Emissions

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

**Sec. 1. 38 MRSA §1661, sub-§4**, as repealed and replaced by PL 2003, c. 221, §2, is amended to read:

**4. Mercury switch.** "Mercury switch" means a mercury-added product or device ~~that opens or closes an electrical circuit or gas valve for measuring, controlling or regulating the flow of gas, other fluids or electricity.~~ "Mercury switch" includes mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature ~~and~~ mercury flame sensors ~~and mercury connectors for making, breaking or changing the connection in an electrical circuit.~~ "Mercury switch" does not include a mercury-added thermostat as defined in section 1665-B, subsection 1, paragraph B.

**Sec. 2. 38 MRSA §1661-C, sub-§5**, as amended by PL 2003, c. 221, §3, is repealed.

**Sec. 3. 38 MRSA §1665-A, sub-§5**, as amended by PL 2005, c. 561, §9, is further amended to read:

**5. Motor vehicle manufacturer responsibility.** Manufacturers of motor vehicles sold in this State that contain mercury switches or mercury headlamps shall, individually or collectively, do the following:

A. ~~By January 1, 2003, establish and maintain consolidation facilities geographically located to serve all areas of the State to which mercury switches removed pursuant to this section may be transported by the persons performing the removal. A consolidation facility may not be a facility that is licensed in the State as a new or used automobile dealership; Establish a system to collect and recycle mercury switches removed pursuant to subsection 3. The system may consist of consolidation facilities geographically located to serve all areas of the State to which the switches may be transported by the persons performing the removal or any other collection methodology approved by the department. The system must be~~

convenient to use, must accept the switches free of charge and may not provide for collection of the switches at an automobile dealership;

B. Pay for each mercury switch brought to the consolidation facilities as partial compensation for the removal, storage and transport of the switches a minimum of \$4 if the vehicle identification number of the source vehicle is provided. If the vehicle identification number of the source vehicle is not provided, no payment is required;

C. Ensure that mercury switches ~~redeemed at the consolidation centers collected pursuant to paragraph A~~ are managed in accordance with the universal waste rules adopted by the board under subsection 8; and

D. Provide the department and persons who remove motor vehicle components under this section with information, training and other technical assistance required to facilitate removal and recycling of the components in accordance with the universal waste rules adopted by the board under subsection 8, including, but not limited to, information identifying the motor vehicle models that contain or may contain mercury switches or mercury headlamps.

The goal of this collection and recycling effort is to ~~collect and recycle at least 90 pounds of mercury per year from~~ minimize mercury emissions to the environment by ensuring that all mercury switches are removed from motor vehicles for recycling before the vehicles are flattened, baled or crushed. By September 30, 2002, motor vehicle manufacturers shall provide the department with a plan as to how they intend to comply with the requirements of this subsection.

In complying with the requirements of this subsection, manufacturers of motor vehicles shall establish a system that does not require a person who removes a mercury switch to segregate switches separately according to each manufacturer of motor vehicles from which the switches are removed.

**Sec. 4. 38 MRSA §1665-B, sub-§1**, as enacted by PL 2005, c. 558, §1, is repealed and the following enacted in its place:

**1. Definitions.** For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Manufacturer" means a person who owns or owned a brand of mercury-added thermostats sold in the State before January 1, 2006.

B. "Mercury-added thermostat" or "mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air conditioning equipment. "Mercury-added thermostat" or "mercury thermo-

stat" includes a thermostat used to sense and control room temperature in residential, commercial, industrial and other buildings but does not include a thermostat used to sense and control temperature as part of a manufacturing process.

C. "Retailer" means a person who sells thermostats of any kind directly to homeowners or other nonprofessionals through any selling or distribution mechanism, including, but not limited to, sales using the Internet or catalogues.

D. "Wholesaler" means a business that the department determines is primarily engaged in the distribution and selling of electrical supplies or large quantities of heating, ventilation and air conditioning components to contractors that install electrical or heating, ventilation and air conditioning components.

**Sec. 5. 38 MRSA §1665-B, sub-§1-A** is enacted to read:

**1-A. Prohibitions.** The following prohibitions apply to the sale or distribution of mercury thermostats in the State.

A. A person may not sell or offer to sell or distribute for promotional purposes a mercury thermostat.

B. 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 manufacturer's thermostats are not offered for sale in this State.

C. 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.

**Sec. 6. 38 MRSA §1665-B, sub-§2, ¶A**, as enacted by PL 2005, c. 558, §1, is amended to read:

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 a reasonable one-time fee not to exceed \$25 to all

heating, ventilation and air conditioning supply, electrical supply and plumbing supply distributor locations that sell thermostats and to all retailers who volunteer to participate in the program; and

(4) By January 1, 2007, authorized bins for mercury-added thermostat collection are made available at a reasonable one-time fee not to exceed \$25 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;

**Sec. 7. 38 MRSA §1665-B, sub-§2, ¶F**, as enacted by PL 2005, c. 558, §1, is amended to read:

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~~

**Sec. 8. 38 MRSA §1665-B, sub-§2, ¶G**, as enacted by PL 2005, c. 558, §1, is amended to read:

G. Beginning in 2008, submit an annual report to the department by January 30th of each year ~~that includes~~. The report must be submitted on a form provided by the department and must include 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;
- (5) A description of the education and outreach strategies employed during the previous calendar year to increase participation and collection rates and examples of education and outreach materials used; and

(6) Modifications that the manufacturer is proposing to make in its collection and recycling program; and

**Sec. 9. 38 MRSA §1665-B, sub-§2, ¶H** is enacted to read:

H. Beginning January 1, 2010, submit a quarterly report to the department within 30 days after the end of each quarter that, for each shipment of thermostats received by the manufacturer or manufacturer's agent for recycling during the quarter, provides:

- (1) The collection location that shipped the thermostats;
- (2) The date the manufacturer received the shipment;
- (3) The number of mercury thermostats; and
- (4) The total amount of mercury collected.

**Sec. 10. 38 MRSA §1665-B, sub-§2-A** is enacted to read:

**2-A. Wholesaler responsibility.** A wholesaler shall post in a prominent location open to public view a notice about the financial incentive plan developed pursuant to subsection 4. The notice must be approved by the department and supplied by the manufacturer at no cost to the wholesaler.

**Sec. 11. 38 MRSA §1665-B, sub-§2-B** is enacted to read:

**2-B. Termination of retailer participation.** A manufacturer may terminate a retailer's participation in the collection program under subsection 2, paragraph A only after complying with the provisions of this subsection.

A. The manufacturer must notify the retailer, in writing, of noncompliance with program policies and procedures and provide the retailer an opportunity to comply.

B. If the retailer continues to send in significant ineligible materials through the collection program after 2 written notices of noncompliance, the manufacturer may terminate the retailer's participation.

C. For termination to occur under this subsection, the manufacturer must notify the retailer and the department in writing.

**Sec. 12. 38 MRSA §1665-B, sub-§3,** as enacted by PL 2005, c. 558, §1, is repealed.

See title page for effective date.

## CHAPTER 278

### H.P. 646 - L.D. 943

#### An Act To Reduce Lung Cancer Rates in Maine

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

**Sec. 1. 14 MRSA §6030-D** is enacted to read:

#### **§6030-D. Radon testing**

**1. Testing.** By 2012 and every 10 years thereafter, a landlord or other lessor of a residential building shall have the air of the residential building tested for the presence of radon. A test required to be performed under this section must be conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165.

**2. Notification.** A landlord or other lessor of a residential building shall provide written notice to a tenant or potential tenant regarding the presence of radon in the building, including the date and results of the most recent test conducted under subsection 1, and the risk associated with radon. The department shall prepare a standard disclosure statement form for landlords and other lessors of real property to use to disclose to a tenant or potential tenant information concerning radon. The form must include an acknowledgment that the tenant or potential tenant has received the disclosure statement required by this subsection. The department shall post and maintain the forms required by this subsection on its publicly accessible website in a format that is easily downloaded.

**3. Mitigation.** When the test of a residential building under subsection 1 reveals a level of radon of 4.0 picocuries per liter of air or above, the landlord or other lessor of that building shall, within 6 months, mitigate the level of radon in the residential building until it is reduced to a level below 4.0 picocuries per liter of air. If a landlord or other lessor of a residential building is required to obtain a permit under a local or municipal ordinance, mitigation must occur within 6 months after obtaining any necessary permit. Mitigation services must be provided by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165. After mitigation has been performed pursuant to this subsection to reduce the level of radon, the landlord or other lessor of the residential building shall provide written notice to tenants that radon levels have been mitigated.

**4. Penalty.** A person who violates this section commits a civil violation for which a fine of not more than \$250 per violation may be assessed.

**Sec. 2. 22 MRSA §778,** as corrected by RR 1991, c. 2, §75, is amended to read: