

A bill for an act

relating to health and the environment; prohibiting the sale of certain mercury-containing products; modifying restrictions on the sale, use, and disposal of certain mercury-containing products; requiring certain consumer information; modifying lamp recycling facility operation requirements; requesting a study; amending Minnesota Statutes 2006, sections 115A.932, subdivision 1; 116.92, subdivisions 3, 7a, by adding subdivisions; 116.93, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 121A; 325E.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 115A.932, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions and recycling requirements.** (a) A person may not place mercury or a thermostat, thermometer, electric switch, appliance, gauge, medical or scientific instrument, ~~or fluorescent or high-intensity discharge lamp,~~ electric relay, or other electrical device from which the mercury has not been removed for reuse or recycling:

(1) in solid waste; or

(2) in a wastewater disposal system.

(b) A person may not knowingly place mercury or a thermostat, thermometer, electric switch, appliance, gauge, medical or scientific instrument, ~~or fluorescent or high-intensity discharge lamp,~~ electric relay, or other electrical device from which the mercury has not been removed for reuse or recycling:

(1) in a solid waste processing facility; or

(2) in a solid waste disposal facility, as defined in section 115.01, subdivision 4.

~~(c) A person may not knowingly place a fluorescent or high-intensity discharge lamp:~~

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~~(1) in solid waste; or~~

~~(2) in a solid waste facility, except a household hazardous waste collection or recycling facility.~~

~~This paragraph does not apply to waste lamps generated by households until August 1, 1994.~~

(c) A fluorescent or high-intensity discharge lamp must be disposed of by delivery of the lamp to a lamp recycling facility, as defined in section 116.93, subdivision 1, or to a facility that collects and stores lamps for the purpose of delivering them to a lamp recycling facility, including, but not limited to, a household hazardous waste collection or recycling facility.

Sec. 2. Minnesota Statutes 2006, section 116.92, subdivision 3, is amended to read:

Subd. 3. **Labeling; products containing mercury.** (a) A manufacturer or wholesaler may not sell and a retailer may not knowingly sell any of the following items in this state that contain mercury unless the item is labeled in a manner to clearly inform a purchaser or consumer that mercury is present in the item and that the item may not be placed in the garbage until the mercury is removed and reused, recycled, or otherwise managed to ensure that it does not become part of solid waste or wastewater:

(1) a thermostat or thermometer;

(2) an electric switch, individually or as part of another product, other than a motor vehicle;

(3) an appliance;

(4) a medical or scientific instrument; ~~and~~

(5) an electric relay or other electrical device;

(6) a fluorescent or high-intensity discharge lamp, individually or as part of another product; and

(7) laboratory chemicals, reagents, fixatives, and electrodes.

(b) Labeling required under paragraph (a) for a fluorescent or high-intensity discharge lamp must be in at least a 10-point font and must:

(1) clearly inform the purchaser that mercury is present in the item;

(2) explain that the fluorescent lamp should be disposed of according to applicable federal, state, and local laws; and

(3) provide a toll-free telephone number and a uniform resource locator Internet address to a Web site that contains information on applicable disposal laws.

Sec. 3. Minnesota Statutes 2006, section 116.92, subdivision 7a, is amended to read:

Subd. 7a. **Fluorescent and high-intensity discharge lamps; residential applications.** (a) Any information regarding fluorescent and high-intensity discharge lamps containing mercury that is sent by a utility to a customer, present on a utility's Web site, or contained in a utility's print, radio, or video advertisement, must:

(1) state that the lamps contain mercury;
(2) state that mercury is harmful to the environment ~~and~~;
(3) state that ~~it is illegal to place them~~ placing the lamps in garbage is illegal; and
(2) (4) provide a toll-free telephone number or Web site that customers can access to learn how to lawfully dispose of the lamps.

(b) The information under paragraph (a) must be:
(1) provided in a minimum of 10-point type in print or online media;
(2) audibly conveyed in television and radio advertisements; and
(3) provided in a manner that the ordinary consumer will understand that fluorescent and high-intensity discharge lamps contain mercury and must not be placed in garbage in Minnesota.

Sec. 4. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8b. **Ban; mercury-containing sphygmomanometers.** After August 1, 2007, a person may not sell, offer for sale, distribute, install, or reinstall in the state a sphygmomanometer containing mercury.

Sec. 5. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8c. **Ban; mercury-containing gastrointestinal devices.** After August 1, 2007, a person may not sell, offer for sale, distribute, or use in the state an esophageal dilator, bougie tube, gastrointestinal tube, feeding tube, or similar device containing mercury.

Sec. 6. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8d. **Ban; mercury-containing thermostats.** After August 1, 2007, a person may not sell, offer for sale, distribute, install, or reinstall in the state a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air-conditioning equipment. This subdivision does not apply to a thermostat used to sense and control temperature as part of a manufacturing process.

Sec. 7. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8e. **Ban; mercury-containing switches and relays.** (a) After August 1, 2007, a person may not sell, offer for sale, or distribute in the state a mercury switch or mercury relay individually or as part of another product.

(b) For the purposes of this subdivision:

(1) "mercury relay" means a mercury-containing product or device that opens or closes electrical contacts to affect the operation of other devices in the same or another electrical circuit and includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays; and

(2) "mercury switch" means a mercury-containing product or device that opens or closes an electrical circuit or gas valve and includes, but is not limited to, 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. A mercury switch does not include a mercury-added thermostat or a mercury diostat.

(c) The prohibition in this subdivision does not apply to existing medical equipment if the switch or relay is used to replace a switch or relay, which is a component of medical equipment in use prior to January 1, 2008, provided the owner of the equipment has made every reasonable effort to determine that no compatible nonmercury replacement component exists.

Sec. 8. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8f. **Ban; mercury diostats.** After January 1, 2008, a person may not sell, offer for sale, or distribute a new gas oven, range, or stove containing a mercury-containing switch that controls a gas valve in an oven or oven portion of a gas range or stove.

Sec. 9. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8g. **Ban; mercury-containing barometers, manometers, and pyrometers.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state a mercury-containing device used for measuring atmospheric pressure or for measuring pressure of liquids and gases or a mercury-containing device used for measuring the temperature of extremely hot materials, individually or as part of another product.

Sec. 10. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8h. **Ban; mercury in over-the-counter pharmaceuticals.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state for human or animal use an over-the-counter pharmaceutical product containing mercury.

Sec. 11. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8i. **Ban; mercury in cosmetics, toiletries, and fragrances.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state a cosmetic, toiletry, or fragrance product containing mercury.

Sec. 12. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 10. **Definition of mercury-containing.** For the purposes of this section, "mercury-containing" or "containing mercury" means that the product, component of a product, or chemical formulation contains intentionally added mercury.

Sec. 13. Minnesota Statutes 2006, section 116.93, subdivision 2, is amended to read:

Subd. 2. **Lamp recycling facility; permits or licenses; reporting.** (a) A person may not operate a lamp recycling facility without obtaining a permit or license for the facility from the agency. The permit or license must require:

(1) a plan for response to releases, including emergency response;

(2) proof of financial responsibility for closure and any necessary postclosure care at the facility which may include a performance bond or other insurance; ~~and~~

(3) liability insurance or another financial mechanism that provides proof of financial responsibility for response actions required under chapter 115B; and

(4) by March 1 each year, beginning in 2008, an annual report to the agency on the number and type of lamps received from businesses and households in the state and total number of lamps received from all generators outside of the state.

The agency shall specify the format for the report under clause (4) and make the reported information available on the agency's Web site.

(b) A lamp recycling facility that is licensed or permitted by a county under section 473.811, subdivision 5b, complies with this subdivision if the license or permit held by the facility contains at least all the terms and conditions required by the agency for a license or permit issued under this subdivision.

(c) A lamp recycling facility with a demonstrated capability for recycling that is in operation prior to adoption of rules for a licensing or permitting process for the facility by the agency may continue to operate in accordance with a compliance agreement or other approval by the commissioner until a license or permit is issued by the agency under this subdivision.

Sec. 14. [121A.33] CERTAIN MERCURY USE IN SCHOOLS PROHIBITED.

(a) For the purposes of this section, "school" has the meaning given under section 120A.22, subdivision 4, excluding home schools.

(b) After December 31, 2007, a school shall not:

(1) purchase or use elemental mercury for any purpose; and

(2) purchase or use an instrument of measurement that contains mercury, including, but not limited to, a thermometer, barometer, or sphygmomanometer, or a manometer containing mercury.

(c) After December 31, 2009, a school shall not:

(1) store elemental mercury for any purpose; and

(2) store an instrument of measurement that contains mercury including, but not limited to, a thermometer, barometer, sphygmomanometer, or a manometer containing mercury.

(d) This section does not apply to thermostats for heating, ventilation, and air conditioning in the school.

Sec. 15. [325E.127] FLUORESCENT LAMPS CONTAINING MERCURY.

(a) A person who sells fluorescent lamps at retail shall post the notice in paragraph (b) in a manner clearly visible to a consumer making a purchasing decision.

(b) The notice must be in at least 100-point type and state:

"Attention: Fluorescent Lamps Contain Mercury:

Under Minnesota law, it is a crime to dispose of a fluorescent lamp in the garbage. Many counties and utilities have established sites where these lamps are collected to be recycled. Contact your county solid waste department or utility to learn how to lawfully dispose of these lamps."

Sec. 16. MERCURY REDUCTION AND ABATEMENT STUDY.

(a) In order to determine the best practices for mercury reduction and abatement from crematoria, the University of Minnesota mortuary science program is requested to conduct a feasibility study that includes:

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7.1 (1) development of technical solutions and determination of best practices for
7.2 removing mercury amalgam fillings; and

7.3 (2) a survey related to any social concerns that may come from mercury abatement
7.4 policies that would address public concerns and options for abatement.

7.5 (b) The University of Minnesota mortuary science program is requested to
7.6 participate in a stakeholder process including funeral directors, crematory operators, the
7.7 Pollution Control Agency, and any other interested entities and report any findings back
7.8 to the house and senate committees having jurisdiction over health and the environment
7.9 no later than February 1, 2009.