

CHAPTER 277--S.F.No. 2192

An act relating to environment; prohibiting and regulating certain lead and mercury products; modifying ban on formaldehyde in children's products; prohibiting certain cleaning products containing triclosan; amending Minnesota Statutes 2012, sections 115A.932, subdivision 1; 116.92, subdivisions 4, 5, 6, 8j, by adding a subdivision; Minnesota Statutes 2013 Supplement, sections 325F.176; 325F.177; proposing coding for new law in Minnesota Statutes, chapters 116; 145.

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

Section 1. Minnesota Statutes 2012, 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, fluorescent or high-intensity discharge lamp, electric relay, or other electrical~~ mercury-containing device or product, as defined under section 116.92, subdivision 10, 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, fluorescent or high-intensity discharge lamp, electric relay, or other electrical~~ mercury-containing device or product, as defined under section 116.92, subdivision 10, 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.

(c) A fluorescent or high-intensity discharge lamp must be recycled 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, retailer take-back and utility provider program sites, or other sites designated by an electric utility under section 216B.241, subdivisions 2 and 4.

Sec. 2. Minnesota Statutes 2012, section 116.92, subdivision 4, is amended to read:

Subd. 4. **Removal from service; products containing mercury.** (a) When an item listed in ~~subdivision 3~~ this section is removed from service, the mercury in the item must be reused, recycled, or otherwise managed to ensure compliance with section 115A.932.

(b) A person who is in the business of replacing or repairing an item listed in ~~subdivision 3~~ this section in households shall ensure, or deliver the item to a facility that will ensure, that the mercury contained in an item that is replaced or repaired is reused or recycled or otherwise managed in compliance with section 115A.932.

(c) A person may not crush a motor vehicle unless the person has first made a good faith effort to remove all of the mercury switches in the motor vehicle.

(d) An item managed according to the requirements of this section must be transported in a container designed to prevent the escape of mercury into the environment by volatilization or any other means.

Sec. 3. Minnesota Statutes 2012, section 116.92, subdivision 5, is amended to read:

Subd. 5. **Thermostats.** (a) The definitions in this paragraph apply to this subdivision:

(1) "contractor" means a person engaged in the business of installing, servicing, or removing thermostats and other heating, ventilation, and air conditioning components, including a contractor removing thermostats in conjunction with renovation and demolition activities in accordance with Minnesota Rules, part 7035.0805;

(2) "qualified contractor" means a contractor:

(i) who employs seven or more service technicians or installers;

(ii) who is located in an area outside of an urban area, as defined by the United States Census Bureau; or

(iii) whose primary business consists of renovation and demolition activities;

(3) "retailer" means a person who sells thermostats of any kind directly to homeowners or other end-users through any selling or distribution mechanism;

(4) "thermostat" means a temperature control device that may contain elemental mercury in a sealed component that serves as a switch or temperature-sensing element and a sealed component that has been removed from a temperature control device; and

(5) "wholesaler" means a person engaged in the distribution and wholesale sale of thermostats and other heating, ventilation, and air conditioning components to contractors who install heating, ventilation, and air conditioning components.

(b) A manufacturer of thermostats that contain mercury or that may replace thermostats that contain mercury is responsible for the costs of collecting and managing the replaced mercury-containing thermostats to ensure that the thermostats do not become part of the solid waste stream.

(c) A manufacturer of thermostats that contain mercury or that may replace thermostats that contain mercury shall, in addition to the requirements of subdivision 3, provide incentives for and sufficient information to purchasers and consumers of the thermostats for the purchasers or consumers to ensure that mercury in thermostats being removed from service is reused or recycled or otherwise managed in compliance with section 115A.932. A manufacturer that has complied with this subdivision is not liable for improper disposal by purchasers or consumers of thermostats.

(d) A manufacturer of thermostats subject to this subdivision, or an organization of manufacturers of thermostats and its officers, members, employees, and agents, may participate in projects or programs to collect and properly manage waste thermostats. Any person who participates in a project or program is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of the thermostats under this subdivision.

(e) A manufacturer of thermostats or organization of manufacturers of thermostats that participates in a thermostat collection and management program under this subdivision must report at least annually to the agency. The report must include:

(1) a description of how the program operates;

(2) a description of program components, including incentives provided under this subdivision, and an evaluation of the program components' effectiveness in promoting participation and recovery of thermostats;

(3) eligibility criteria for program participants;

(4) a list of program participants; and

(5) the number of thermostats remitted by each program participant during the reporting period.

(f) A wholesaler, qualified contractor, or retailer may participate as a collection site in a manufacturer's mercury thermostat collection and management program required under this subdivision. A wholesaler or retailer that participates as a collection site in a manufacturer's mercury thermostat collection and management program shall post prominent signs at the wholesaler's or retailer's business location regarding the collection and management of mercury thermostats.

Sec. 4. Minnesota Statutes 2012, section 116.92, subdivision 6, is amended to read:

Subd. 6. **Mercury thermometers prohibited.** (a) A manufacturer, wholesaler, or retailer may not sell or distribute at no cost a thermometer containing mercury that was manufactured after June 1, 2001.

(b) Paragraph (a) does not apply to:

~~(1) an electronic thermometer with a battery containing mercury if the battery is in compliance with section 325E.125;~~

~~(2) a mercury thermometer used for food research and development or food processing, including meat, dairy products, and pet food processing;~~

~~(3) a mercury thermometer that is a component of an animal agriculture climate control system or industrial measurement system until such time as the system is replaced or a nonmercury component for the system is available; or~~

~~(4) a mercury thermometer used for calibration of other thermometers, apparatus, or equipment, unless a nonmercury calibration standard is approved for the application by the National Institute of Standards and Technology.~~

(c) A manufacturer is in compliance with this subdivision if the manufacturer:

(1) has received an exclusion or exemption from a state that is a member of the Interstate Mercury Education and Reduction Clearinghouse (IMERC) for replacement parts when no alternative is available or for an application when no feasible alternative is available;

(2) submits a copy of the approved exclusion or exemption to the commissioner; and

(3) meets all of the requirements in the approved exclusion or exemption for the manufacturer's activities within the state.

Sec. 5. Minnesota Statutes 2012, section 116.92, subdivision 8j, is amended to read:

Subd. 8j. **Exclusion for existing equipment.** The prohibitions in subdivisions 6 and 8b to 8g do not apply if a thermometer, switch, relay, or measuring device is used to replace a thermometer, switch, relay, or measuring device that is a component of a larger product in use prior to January 1, 2008, provided the owner of that equipment has made every reasonable effort to determine that no compatible nonmercury replacement component exists an industrial measurement system or control system until the system is replaced or a nonmercury component for the system is available. The owner of the system shall notify the commissioner within 30 days of replacing the component and identify the replacement mercury component that was installed.

Sec. 6. Minnesota Statutes 2012, section 116.92, is amended by adding a subdivision to read:

Subd. 8k. **Ban; mercury in balancing and dampening products and equipment.** A person may not sell, offer for sale, distribute, install, or use in the state a mercury-containing product or mercury-containing equipment that is used for balancing, dampening, or providing a weight or counterweight function.

EFFECTIVE DATE. This section is effective January 1, 2015.

Sec. 7. **[116.931] WHEEL WEIGHTS AND BALANCING PRODUCTS; LEAD AND MERCURY PROHIBITION.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Motor vehicle" means a self-propelled vehicle or a vehicle propelled or drawn by a self-propelled vehicle that is operated on a highway, on a railroad track, on the ground, in the water, or in the air.

(c) "New motor vehicle" means a motor vehicle that has not been previously sold to a person except a distributor, wholesaler, or motor vehicle dealer for resale.

Subd. 2. **Tire service.** When replacing or balancing a tire on a motor vehicle or aircraft, a person may not use a wheel weight or other product for balancing motor vehicle or aircraft wheels if the weight or other balancing product contains lead or mercury that was intentionally added during the manufacture of the product.

Subd. 3. **Sales ban.** A person may not sell or offer to sell or distribute weights or other products for balancing motor vehicle or aircraft wheels if the weight or other balancing product contains lead or mercury that was intentionally added during the manufacture of the product.

Subd. 4. **New motor vehicles.** A person may not sell a new motor vehicle or aircraft that is equipped with a weight or other product for balancing wheels if the weight or other balancing product contains lead or mercury that was intentionally added during the manufacture of the product.

Subd. 5. **Salvage.** A person may not shred or crush, or market for shredding or crushing, any motor vehicle, aircraft, watercraft, or railroad or industrial equipment, or any portion thereof, without:

(1) inspecting the vehicle or equipment; and

(2) removing all weights or other products for balancing wheels or other equipment if the weights or balancing products contain lead or mercury that was intentionally added during the manufacture of the weights or balancing products.

Subd. 6. **Management of wheel weights and balancing products.** Mercury in wheel weights and other balancing products for motor vehicle and aircraft wheels must be recycled or otherwise managed to comply with sections 115A.932 and 116.92 and to ensure that it does not become part of the solid waste stream and is not released to the environment. Lead in wheel weights and other balancing products for motor vehicle and aircraft wheels must be recycled to ensure that it does not become part of the solid waste stream and is not released to the environment.

Subd. 7. **Educational materials; outreach.** Prior to the effective date of this section, the agency shall produce and distribute educational materials on the prohibitions required under this section to businesses subject to the prohibitions and shall conduct additional outreach and education activities to those businesses.

EFFECTIVE DATE. This section is effective January 1, 2016.

Sec. 8. [145.945] CERTAIN SALES OF CLEANING PRODUCTS PROHIBITED.

Subdivision 1. **Prohibition.** In order to prevent the spread of infectious disease and avoidable infections and to promote best practices in sanitation, no person shall offer for retail sale in Minnesota any cleaning product that contains triclosan and is used by consumers for sanitizing or hand and body cleansing.

Subd. 2. **Exception.** The prohibition in subdivision 1 shall not apply to individual products for which specific United States Food and Drug Administration approval for consumer use has been secured.

EFFECTIVE DATE. This section is effective January 1, 2017.

Sec. 9. Minnesota Statutes 2013 Supplement, section 325F.176, is amended to read:

325F.176 DEFINITIONS.

(a) For the purposes of sections 325F.176 to 325F.178, the following terms have the meanings given them.

(b) "Child" means a person under eight years of age.

(c) "Children's product" means a product primarily designed or intended by a manufacturer to be physically applied to or introduced into a child's body, including any article used as a component of such a product and excluding a food, beverage, dietary supplement, pharmaceutical product or biologic, children's toys that are covered by the ASTM International F963 standard for Toy Safety, or a medical device as defined in the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321(h), as amended through February 15, 2013.

(d) "Intentionally added chemical" means a chemical in a product that serves an intended function in the product.

Sec. 10. Minnesota Statutes 2013 Supplement, section 325F.177, is amended to read:

325F.177 FORMALDEHYDE IN CHILDREN'S PRODUCTS; BAN.

(a) Beginning August 1, 2014, no manufacturer or wholesaler may sell or offer for sale in this state a children's product that intentionally contains:

(1) formaldehyde, including formaldehyde contained in a solution; or

(2) intentionally added chemical ingredients that chemically degrade under normal conditions of temperature and pressure to release free formaldehyde at levels exceeding a de minimis level of 0.05 percent.

(b) Beginning August 1, 2015, no retailer may sell or offer for sale in this state a children's product that intentionally contains:

(1) formaldehyde, including formaldehyde contained in a solution; or

(2) intentionally added chemical ingredients that chemically degrade under normal conditions of temperature and pressure to release free formaldehyde at levels exceeding a de minimis level of 0.05 percent.

Presented to the governor May 15, 2014

Signed by the governor May 16, 2014, 10:34 a.m.