

2253

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I N S E N A T E

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HASSELL-THOMPSON, KRUEGER, MONSERRATE, SAMPSON, THOMPSON -- read twice
and ordered printed, and when printed to be committed to the Committee
on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to
banning the use or sale of certain mercury products

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 37 of the environmental conservation law is amended
2 by adding a new title 5 to read as follows:

3 TITLE 5
4 BAN OF THE USE AND SALE OF CERTAIN PRODUCTS
5 CONTAINING MERCURY

6 SECTION 37-0501. LEGISLATIVE INTENT.
7 37-0503. DEFINITIONS.
8 37-0505. BAN OF THE USE OF MERCURY GAUGES OR MANOMETERS.
9 37-0507. SALE OF MERCURY FEVER THERMOMETERS PROHIBITED.
10 37-0509. SEVERABILITY.

11 S 37-0501. LEGISLATIVE INTENT.

12 THE INTENT OF THIS TITLE IS TO ADDRESS THE SERIOUS HEALTH RISKS POSED
13 TO STATE RESIDENTS BY THE USE OF MERCURY GAUGES OR MANOMETERS FOR THE
14 TESTING OF GAS PRESSURE AND BY THE USE OF MERCURY FEVER THERMOMETERS.
15 GIVEN THE FRAGILITY OF THESE DEVICES, MERCURY SPILLS CAN EASILY OCCUR,
16 EXPOSING RESIDENTS TO THE HARMFUL EFFECTS OF MERCURY.

17 ALTHOUGH ELEMENTAL MERCURY, A SILVERY-WHITE METAL, WHICH IS LIQUID AT
18 ROOM TEMPERATURE, IS NOT EASILY ABSORBED BY THE SKIN, SPILLED MERCURY
19 CAN BE EASILY VAPORIZED AND INHALED, CAUSING A RANGE OF EFFECTS, FROM
20 TREMORS AND NAUSEA AT LOW LEVELS OF EXPOSURE TO IRREVERSIBLE BRAIN AND
21 KIDNEY DAMAGE AT HIGH LEVELS. THE AMOUNT OF MERCURY FOUND IN ONE COMMER-
22 CIALLY AVAILABLE MANOMETER IS ABOUT EIGHTY-EIGHT GRAMS, OR APPROXIMATELY
23 THREE OUNCES, AND THE AMOUNT OF MERCURY FOUND IN ONE MERCURY FEVER THER-
24 MOMETER IS ABOUT SEVEN-TENTHS GRAMS, OR JUST UNDER ONE GRAM, AMOUNTS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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SUFFICIENT TO OVEREXPOSE PEOPLE TO THIS DEADLY TOXIN. THIS TOXIN IS ESPECIALLY DANGEROUS TO CHILDREN AND PREGNANT WOMEN, BECAUSE EVEN SMALL AMOUNTS OF MERCURY CAN CAUSE SERIOUS DEVELOPMENTAL PROBLEMS.

ADDITIONALLY, MERCURY, A BIOACCUMULATIVE TOXIC COMPOUND RECOGNIZED AS A GLOBAL POLLUTANT, ACCUMULATES IN THE FOOD CHAIN, SO THAT A VERY SMALL AMOUNT OF MERCURY IN A LAKE CAN LEAD TO DANGEROUS LEVELS OF MERCURY IN FISH. JUST ONE GRAM OF MERCURY, THE AMOUNT FOUND IN ONE MERCURY THERMOMETER, IS ENOUGH TO CONTAMINATE ALL OF THE FISH IN A LAKE WITH A SURFACE AREA OF TWENTY ACRES. PEOPLE WHO CONSUME LARGE AMOUNTS OF FISH ARE AT RISK OF ADVERSE EFFECTS OF MERCURY ON THE NERVOUS SYSTEM. BECAUSE THE DEVELOPING NERVOUS SYSTEM IS VULNERABLE TO MERCURY TOXICITY, FETUSES EXPOSED TO MERCURY THROUGH THEIR MOTHER'S CONSUMPTION OF FISH ARE PARTICULARLY AT RISK OF ADVERSE EFFECTS.

GIVEN THE SERIOUS DANGER POSED BY MERCURY GAUGES OR MANOMETERS AND MERCURY FEVER THERMOMETERS TO STATE RESIDENTS, THEIR PROPERTY, AND TO THE ENVIRONMENT, THIS TITLE BANS THE USE BY ANY PERSON OF MERCURY GAUGES OR MANOMETERS FOR THE TESTING OF GAS PRESSURE AND FURTHER BANS THE SALE BY ANY PERSON OF MERCURY FEVER THERMOMETERS.

S 37-0503. DEFINITIONS.

FOR PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "MANOMETER" OR "MERCURY GAUGE" MEANS AN INSTRUMENT CONTAINING MERCURY AND USED TO MEASURE THE PRESSURE OF GAS.

2. "MERCURY FEVER THERMOMETER" MEANS A MERCURY-CONTAINING PRODUCT ENCASED IN GLASS THAT IS USED TO MEASURE HUMAN OR ANIMAL BODY TEMPERATURE.

3. "PERSON" SHALL MEAN ANY NATURAL PERSON, CORPORATION, UNINCORPORATED ASSOCIATION, FIRM, PARTNERSHIP, JOINT VENTURE, JOINT STOCK ASSOCIATION, OR OTHER ENTITY OR BUSINESS ORGANIZATION OF ANY KIND, INCLUDING ANY MASTER PLUMBER OR JOURNEY LEVEL PLUMBER LICENSED OR CERTIFIED TO ENGAGE IN THE BUSINESS OF PLUMBING PURSUANT TO ANY APPLICABLE LAW.

S 37-0505. BAN OF THE USE OF MERCURY GAUGES OR MANOMETERS.

IT SHALL BE UNLAWFUL FOR ANY PERSON TO USE A MERCURY GAUGE OR MANOMETER FOR THE MEASUREMENT OR TESTING OF GAS PRESSURE IN THIS STATE, EXCEPT WHERE THE USE OF A MERCURY GAUGE OR MANOMETER IS SPECIFICALLY REQUIRED BY FEDERAL LAW OR REGULATION.

S 37-0507. SALE OF MERCURY FEVER THERMOMETERS PROHIBITED.

IT SHALL BE UNLAWFUL FOR ANY PERSON IN THIS STATE TO SELL OR CAUSE TO BE SOLD ANY MERCURY FEVER THERMOMETER.

S 37-0509. SEVERABILITY.

IF ANY CLAUSE, SENTENCE, PARAGRAPH, OR PART OF THIS TITLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION, OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY AND IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

S 2. The environmental conservation law is amended by adding a new section 71-3705 to read as follows:

S 71-3705. ENFORCEMENT OF TITLE 5 OF ARTICLE 37.

ANY PERSON WHO VIOLATES THE PROVISIONS OF TITLE 5 OF ARTICLE 37 OF THIS CHAPTER SHALL BE SUBJECT TO THE IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING ONE HUNDRED FIFTY DOLLARS FOR EACH SINGLE VIOLATION.

S 3. This act shall take effect 1 year after it shall have become a law.