

4345--C

2011-2012 Regular Sessions

I N S E N A T E

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Introduced by Sens. GRISANTI, DUANE, ESPAILLAT, MARCELLINO, MARTINS, PARKER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading -- committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, the public service law, the public authorities law, the social services law and the public housing law, in relation to the collection of mercury-containing thermostats; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Short title. This act may be cited as the "Mercury Thermo-
2 stat Collection Act".

3 S 2. Section 27-2101 of the environmental conservation law is amended
4 by adding eight new subdivisions 30, 31, 32, 33, 34, 35, 36 and 37 to
5 read as follows:

6 30. "COLLECTION PROGRAM" MEANS A SYSTEM FOR THE COLLECTION, TRANSPOR-
7 TATION, RECYCLING, AND DISPOSAL OF OUT-OF-SERVICE MERCURY THERMOSTATS
8 THAT IS FINANCED AND MANAGED OR PROVIDED BY A THERMOSTAT MANUFACTURER
9 INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT MANUFACTURERS IN
10 ACCORDANCE WITH THIS SECTION.

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

LBD10551-10-2

1 31. "CONTRACTOR" MEANS A PERSON ENGAGED IN THE BUSINESS OF INSTALLA-
2 TION, SERVICE, OR REMOVAL OF HEATING, VENTILATION, AND AIR-CONDITIONING
3 COMPONENTS.

4 32. "OUT-OF-SERVICE MERCURY THERMOSTAT" MEANS A MERCURY THERMOSTAT
5 THAT IS REMOVED, REPLACED, OR OTHERWISE TAKEN OUT OF SERVICE.

6 33. "QUALIFIED CONTRACTOR" MEANS A PERSON ENGAGED IN THE BUSINESS OF
7 INSTALLATION, SERVICE, OR REMOVAL OF HEATING, VENTILATION, AND AIR-CON-
8 DITIONING COMPONENTS WHO EMPLOYS SEVEN OR MORE SERVICE TECHNICIANS OR
9 INSTALLERS OR WHO IS LOCATED IN AN AREA OUTSIDE OF AN URBAN AREA, AS
10 DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS.

11 34. "QUALIFIED LOCAL GOVERNMENT AUTHORITIES" MEANS HOUSEHOLD HAZARDOUS
12 WASTE FACILITIES, SOLID WASTE MANAGEMENT AGENCIES, ENVIRONMENTAL MANAGE-
13 MENT AGENCIES, OR DEPARTMENTS OF PUBLIC HEALTH.

14 35. "THERMOSTAT MANUFACTURER" MEANS A PERSON WHO OWNS OR OWNED A NAME
15 BRAND OF ONE OR MORE MERCURY THERMOSTATS SOLD IN THE STATE.

16 36. "THERMOSTAT RETAILER" MEANS A PERSON WHO SELLS THERMOSTATS OF ANY
17 KIND PRIMARILY TO HOMEOWNERS OR OTHER NONPROFESSIONALS THROUGH ANY SALE
18 OR DISTRIBUTION MECHANISM, INCLUDING, BUT NOT LIMITED TO, SALES USING
19 THE INTERNET OR CATALOGS. A THERMOSTAT RETAILER THAT MEETS THE DEFI-
20 NITION OF THERMOSTAT WHOLESALER SHALL BE CONSIDERED A THERMOSTAT WHOLE-
21 SALER.

22 37. "THERMOSTAT WHOLESALER" MEANS A PERSON WHO IS ENGAGED IN THE
23 DISTRIBUTION AND WHOLESALE SELLING OF HEATING, VENTILATION, AND AIR-CON-
24 DITIONING COMPONENTS, INCLUDING, BUT NOT LIMITED TO, THERMOSTATS, TO
25 CONTRACTORS, AND WHOSE TOTAL WHOLESALE SALES ACCOUNT FOR EIGHTY PERCENT
26 OR MORE OF ITS TOTAL SALES. A THERMOSTAT MANUFACTURER, AS DEFINED IN
27 SUBDIVISION THIRTY-FIVE OF THIS SECTION, IS NOT A THERMOSTAT WHOLESALER.

28 S 3. Section 27-2105 of the environmental conservation law is amended
29 by adding a new subdivision 5 to read as follows:

30 5. NO PERSON SHALL DISPOSE OF AN OUT-OF-SERVICE MERCURY THERMOSTAT IN
31 SOLID WASTE OR OTHERWISE DISPOSE OF SUCH A PRODUCT EXCEPT BY SEPARATED
32 DELIVERY THEREOF TO A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE
33 MANAGEMENT FACILITY PERMITTED OR AUTHORIZED PURSUANT TO TITLE SEVEN OR
34 NINE OF THIS ARTICLE.

35 S 4. The environmental conservation law is amended by adding a new
36 section 27-2119 to read as follows:

37 S 27-2119. MERCURY-CONTAINING THERMOSTAT COLLECTION.

38 1. EACH THERMOSTAT MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY
39 WITH OTHER THERMOSTAT MANUFACTURERS, ESTABLISH AND MAINTAIN A COLLECTION
40 PROGRAM FOR THE COLLECTION, TRANSPORTATION, AND PROPER MANAGEMENT OF
41 OUT-OF-SERVICE MERCURY THERMOSTATS IN ACCORDANCE WITH THE PROVISIONS OF
42 THIS SECTION.

43 2. EACH THERMOSTAT MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY
44 WITH OTHER THERMOSTAT MANUFACTURERS THROUGH A COLLECTION PROGRAM, DO THE
45 FOLLOWING:

46 (A) ON AND AFTER JULY FIRST, TWO THOUSAND THIRTEEN, COMPILE A LIST OF
47 THERMOSTAT WHOLESALERS IN THE STATE AND OFFER EACH THERMOSTAT WHOLESALER
48 CONTAINERS FOR THE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS.

49 (B) ON AND AFTER JULY FIRST, TWO THOUSAND THIRTEEN, MAKE COLLECTION
50 CONTAINERS AVAILABLE TO ALL QUALIFIED CONTRACTORS, THERMOSTAT WHOLE-
51 SALERS, THERMOSTAT RETAILERS, AND QUALIFIED LOCAL GOVERNMENT AUTHORITIES
52 IN THIS STATE THAT REQUEST A CONTAINER. EACH THERMOSTAT MANUFACTURER
53 SHALL WITH EACH CONTAINER INCLUDE INFORMATION REGARDING THE PROPER
54 MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS AS UNIVERSAL WASTE IN
55 ACCORDANCE WITH THE COLLECTION PROGRAM AND DEPARTMENT RULES.

1 (C) ESTABLISH A SYSTEM TO COLLECT, TRANSPORT, AND PROPERLY MANAGE
2 OUT-OF-SERVICE MERCURY THERMOSTATS FROM ALL COLLECTION SITES ESTABLISHED
3 UNDER THIS SECTION.

4 (D) FROM JULY FIRST, TWO THOUSAND THIRTEEN, THROUGH DECEMBER
5 THIRTY-FIRST, TWO THOUSAND FIFTEEN, CONDUCT EDUCATION AND OUTREACH
6 EFFORTS, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

7 (1) CREATE A PUBLIC SERVICE ANNOUNCEMENT PROMOTING COLLECTION AND
8 PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS, COPIES OF WHICH
9 SHALL BE PROVIDED TO THE DEPARTMENT;

10 (2) ESTABLISH AND MAINTAIN A PUBLICLY ACCESSIBLE WEBSITE FOR THE
11 DISSEMINATION OF EDUCATIONAL MATERIALS TO PROMOTE THE COLLECTION OF
12 OUT-OF-SERVICE MERCURY THERMOSTATS. THIS WEBSITE SHALL INCLUDE TEMPLATES
13 OF THE EDUCATIONAL MATERIALS ON THE INTERNET WEBSITE IN A FORM AND
14 FORMAT THAT CAN BE EASILY DOWNLOADED AND PRINTED. THE LINK TO THIS
15 WEBSITE SHALL BE PROVIDED TO THE DEPARTMENT;

16 (3) CONTACT THERMOSTAT WHOLESALERS AT LEAST ONCE A YEAR TO ENCOURAGE
17 THEIR SUPPORT AND PARTICIPATION IN EDUCATING THEIR CUSTOMERS ON THE
18 IMPORTANCE OF AND STATUTORY REQUIREMENTS FOR THE COLLECTION AND PROPER
19 MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS;

20 (4) DEVELOP AND IMPLEMENT STRATEGIES TO ENCOURAGE PARTICIPATING THER-
21 MOSTAT RETAILERS TO EDUCATE THEIR CUSTOMERS ON THE IMPORTANCE OF AND
22 OPPORTUNITIES FOR COLLECTING AND RECYCLING OUT-OF-SERVICE MERCURY THER-
23 MOSTATS;

24 (5) CREATE AND MAINTAIN A WEB-BASED PROGRAM THAT ALLOWS CONTRACTORS
25 AND CONSUMERS TO IDENTIFY COLLECTION SITES FOR OUT-OF-SERVICE MERCURY
26 THERMOSTATS BY ZIP CODE IN THE STATE;

27 (6) PREPARE AND MAIL TO CONTRACTOR ASSOCIATIONS A POSTCARD OR OTHER
28 NOTICE THAT PROVIDES INFORMATION ON THE COLLECTION PROGRAM FOR
29 OUT-OF-SERVICE MERCURY THERMOSTATS; AND

30 (7) DEVELOP INFORMATIONAL ARTICLES, PRESS RELEASES, AND NEWS STORIES
31 PERTAINING TO THE IMPORTANCE OF AND OPPORTUNITIES FOR COLLECTING AND
32 RECYCLING OUT-OF-SERVICE MERCURY THERMOSTATS AND DISTRIBUTE THOSE MATE-
33 RIALS TO TRADE PUBLICATIONS, LOCAL MEDIA, AND STAKEHOLDER GROUPS.

34 (E) ON OR BEFORE JULY FIRST, TWO THOUSAND THIRTEEN, DEVELOP AND UPDATE
35 AS NECESSARY EDUCATIONAL AND OTHER OUTREACH MATERIALS FOR DISTRIBUTION
36 TO CONTRACTORS, CONTRACTOR ASSOCIATIONS, AND CONSUMERS. THOSE MATERIALS
37 SHALL BE MADE AVAILABLE FOR USE BY PARTICIPATING THERMOSTAT WHOLESALERS,
38 THERMOSTAT RETAILERS, CONTRACTORS, AND QUALIFIED LOCAL GOVERNMENT
39 AUTHORITIES. THE MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
40 FOLLOWING:

41 (1) SIGNAGE, SUCH AS POSTERS AND CLING SIGNAGE, THAT CAN BE PROMINENT-
42 LY DISPLAYED TO PROMOTE THE COLLECTION OF OUT-OF-SERVICE MERCURY THERMO-
43 STATS TO CONTRACTORS AND CONSUMERS; AND

44 (2) WRITTEN MATERIALS OR TEMPLATES OF MATERIALS FOR REPRODUCTION BY
45 THERMOSTAT WHOLESALERS AND THERMOSTAT RETAILERS TO BE PROVIDED TO
46 CUSTOMERS AT THE TIME OF PURCHASE OR DELIVERY OF A THERMOSTAT. THE MATE-
47 RIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON THE IMPOR-
48 TANCE OF PROPERLY MANAGING OUT-OF-SERVICE MERCURY THERMOSTATS AND OPPOR-
49 TUNITIES FOR THE COLLECTION OF THOSE THERMOSTATS.

50 (F) PROVIDE AN OPPORTUNITY FOR THE DEPARTMENT TO OFFER FEEDBACK AND
51 SUGGESTIONS ON THE COLLECTION PROGRAM.

52 3. IF THE COLLECTION PROGRAMS DO NOT COLLECTIVELY ACHIEVE THE
53 COLLECTION GOALS PROVIDED FOR IN SUBDIVISION SIX OF THIS SECTION FOR
54 CALENDAR YEAR TWO THOUSAND FOURTEEN OR ANY YEAR THEREAFTER THE DEPART-
55 MENT SHALL CONFER WITH THERMOSTAT MANUFACTURERS, THERMOSTAT WHOLESALERS,
56 QUALIFIED CONTRACTORS, THE NEW YORK STATE ENERGY RESEARCH DEVELOPMENT

1 AUTHORITY, NEW YORK STATE PUBLIC SERVICE COMMISSION, DIVISION OF HOUSING
2 AND COMMUNITY RENEWAL, ENVIRONMENTAL GROUPS, MUNICIPAL RECYCLERS AND
3 OTHER STAKEHOLDERS THAT MAY INCLUDE THERMOSTAT RETAILERS, THE POWER
4 AUTHORITY OF THE STATE OF NEW YORK, PROVIDERS OF QUALIFIED ENERGY EFFI-
5 CIENCY SERVICES AND LOW COST RESIDENTIAL WEATHERIZATION, AND CONSIDER
6 REVISIONS TO THE COLLECTION PROGRAMS THAT ARE DESIGNED TO ACHIEVE THE
7 GOALS IN SUBSEQUENT CALENDAR YEARS.

8 4. WITHIN NINETY DAYS AFTER CONDUCTING STAKEHOLDER CONSULTATIONS, THE
9 DEPARTMENT SHALL ISSUE FINDINGS WITH REGARD TO APPROVED MODIFICATIONS TO
10 THE PROPOSED COLLECTION PROGRAM.

11 (A) THE DEPARTMENT SHALL APPROVE PROPOSED REVISIONS IF THE DEPARTMENT
12 DETERMINES THAT THE REVISED COLLECTION PROGRAMS WILL COLLECTIVELY
13 ACHIEVE THE COLLECTION GOALS SET FORTH IN SUBDIVISION SIX OF THIS
14 SECTION.

15 (B) IF THE DEPARTMENT DETERMINES THE REVISED COLLECTION PROGRAMS WILL
16 NOT COLLECTIVELY ACHIEVE THE COLLECTION GOALS SET FORTH IN SUBDIVISION
17 SIX OF THIS SECTION, THE DEPARTMENT MAY REQUIRE MODIFICATIONS TO ONE OR
18 MORE COLLECTION PROGRAMS THAT THE DEPARTMENT DETERMINES ARE NECESSARY TO
19 ACHIEVE THE COLLECTION GOALS. MODIFICATIONS REQUIRED BY THE DEPARTMENT
20 MAY INCLUDE IMPROVEMENTS TO OUTREACH AND EDUCATION CONDUCTED UNDER THE
21 COLLECTION PROGRAM, EXPANSION OF THE NUMBER AND LOCATION OF COLLECTION
22 SITES ESTABLISHED UNDER THE PROGRAM, MODIFICATION OF THE ROLES OF
23 PARTICIPANTS, AND A FIVE DOLLAR FINANCIAL INCENTIVE IN THE FORM OF
24 EITHER CASH OR A COUPON OFFERED BY THE MANUFACTURER TO CONTRACTORS AND
25 CONSUMERS FOR EACH OUT-OF-SERVICE MERCURY THERMOSTAT RETURNED TO A
26 COLLECTION SITE.

27 (C) THERMOSTAT MANUFACTURERS SHALL BEGIN THE PROCESS TO IMPLEMENT
28 COLLECTION PROGRAM REVISIONS APPROVED BY THE DEPARTMENT WITHIN NINETY
29 DAYS AFTER APPROVAL.

30 5. NO LATER THAN APRIL FIRST, TWO THOUSAND FOURTEEN, AND NO LATER THAN
31 APRIL FIRST OF EACH YEAR THEREAFTER, EACH THERMOSTAT MANUFACTURER SHALL,
32 INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT MANUFACTURERS, SUBMIT
33 AN ANNUAL REPORT ON ITS COLLECTION PROGRAM TO THE DEPARTMENT COVERING
34 THE ONE-YEAR PERIOD ENDING DECEMBER THIRTY-FIRST OF THE PREVIOUS YEAR.
35 EACH REPORT SHALL BE POSTED ON THE MANUFACTURER'S OR PROGRAM OPERATOR'S
36 RESPECTIVE INTERNET WEBSITE. THE ANNUAL REPORT SHALL INCLUDE, BUT NOT BE
37 LIMITED TO, THE FOLLOWING:

38 (A) THE NUMBER OF OUT-OF-SERVICE MERCURY THERMOSTATS COLLECTED AND
39 MANAGED UNDER THIS SECTION DURING THE PREVIOUS CALENDAR YEAR;

40 (B) THE ESTIMATED TOTAL AMOUNT OF MERCURY CONTAINED IN THE OUT-OF-SER-
41 VICE MERCURY THERMOSTATS COLLECTED UNDER THIS SECTION DURING THE PREVI-
42 OUS CALENDAR YEAR;

43 (C) A LIST OF ALL THERMOSTAT WHOLESALERS, CONTRACTORS, QUALIFIED LOCAL
44 GOVERNMENT AUTHORITIES, AND THERMOSTAT RETAILERS PARTICIPATING IN THE
45 PROGRAM AS MERCURY THERMOSTAT COLLECTION SITES AND THE NUMBER OF
46 OUT-OF-SERVICE MERCURY THERMOSTATS RETURNED BY EACH;

47 (D) AN ACCOUNTING OF THE PROGRAM'S ADMINISTRATIVE COSTS;

48 (E) A DESCRIPTION OF OUTREACH STRATEGIES EMPLOYED UNDER PARAGRAPH (D)
49 OF SUBDIVISION TWO OF THIS SECTION;

50 (F) EXAMPLES OF OUTREACH AND EDUCATIONAL MATERIALS USED UNDER PARA-
51 GRAPH (E) OF SUBDIVISION TWO OF THIS SECTION;

52 (G) THE INTERNET WEBSITE ADDRESS OR ADDRESSES WHERE THE ANNUAL REPORT
53 MAY BE VIEWED ONLINE;

54 (H) A DESCRIPTION OF HOW THE OUT-OF-SERVICE MERCURY THERMOSTATS WERE
55 MANAGED;

1 (I) ANY MODIFICATIONS THAT THE THERMOSTAT MANUFACTURER HAS MADE OR IS
2 PLANNING TO MAKE IN ITS COLLECTION PROGRAM; AND

3 (J) THE IDENTIFICATION OF A COLLECTION PROGRAM CONTACT AND THE BUSI-
4 NESS PHONE NUMBER, MAILING ADDRESS, AND E-MAIL ADDRESS FOR THE CONTACT.

5 6. THE COLLECTION PROGRAMS ESTABLISHED BY THERMOSTAT MANUFACTURERS
6 UNDER THIS SECTION SHALL BE DESIGNED TO COLLECTIVELY ACHIEVE THE FOLLOW-
7 ING STATEWIDE GOALS:

8 (A) FOR CALENDAR YEAR TWO THOUSAND FOURTEEN, THE COLLECTION OF AT
9 LEAST TEN THOUSAND MERCURY THERMOSTATS TAKEN OUT OF SERVICE IN THE STATE
10 DURING THE CALENDAR YEAR.

11 (B) FOR CALENDAR YEAR TWO THOUSAND FIFTEEN, THE COLLECTION OF AT LEAST
12 FIFTEEN THOUSAND MERCURY THERMOSTATS TAKEN OUT OF SERVICE IN THE STATE
13 DURING THE CALENDAR YEAR.

14 (C) FOR CALENDAR YEARS TWO THOUSAND SIXTEEN THROUGH TWO THOUSAND TWEN-
15 TY-ONE, THE COLLECTION GOALS SHALL BE ESTABLISHED BY THE DEPARTMENT. THE
16 DEPARTMENT SHALL ESTABLISH COLLECTION GOALS NO LATER THAN JUNE FIRST,
17 TWO THOUSAND FIFTEEN. THE COLLECTION GOALS ESTABLISHED BY THE DEPART-
18 MENT SHALL ACHIEVE THE MAXIMUM FEASIBLE NUMBER OF OUT-OF-SERVICE MERCURY
19 THERMOSTATS IN THE STATE. IN DEVELOPING THE COLLECTION GOALS, THE
20 DEPARTMENT SHALL TAKE INTO ACCOUNT, AT A MINIMUM, (I) THE EFFECTIVENESS
21 OF COLLECTION PROGRAMS FOR OUT-OF-SERVICE MERCURY THERMOSTATS IN THE
22 STATE AND OTHER STATES, INCLUDING EDUCATION AND OUTREACH EFFORTS, (II)
23 COLLECTION REQUIREMENTS IN OTHER STATES, (III) ANY REPORTS OR STUDIES ON
24 THE NUMBER OF OUT-OF-SERVICE MERCURY THERMOSTATS THAT ARE AVAILABLE FOR
25 COLLECTION IN THIS STATE, OTHER STATES, AND NATIONALLY, AND (IV) OTHER
26 FACTORS. PRIOR TO ESTABLISHING THE COLLECTION GOALS, THE DEPARTMENT
27 SHALL CONSULT WITH STAKEHOLDER GROUPS THAT INCLUDE, AT A MINIMUM, REPRE-
28 SENTATIVES OF THERMOSTAT MANUFACTURERS, ENVIRONMENTAL GROUPS, MUNICIPAL
29 RECYCLERS, THERMOSTAT WHOLESALERS, CONTRACTORS, AND THERMOSTAT RETAIL-
30 ERS.

31 7. ALL CONTRACTORS, THERMOSTAT WHOLESALERS, THERMOSTAT MANUFACTURERS,
32 AND THERMOSTAT RETAILERS PARTICIPATING IN THE PROGRAM SHALL HANDLE AND
33 MANAGE THE OUT-OF-SERVICE MERCURY THERMOSTATS IN A MANNER THAT IS
34 CONSISTENT WITH THE PROVISIONS OF THE COLLECTION, TREATMENT AND DISPOSAL
35 OF REFUSE AND OTHER SOLID WASTE AS REGULATED BY THE DEPARTMENT.

36 8. ON AND AFTER JULY FIRST, TWO THOUSAND THIRTEEN, NO THERMOSTAT
37 WHOLESALER SHALL SELL, OFFER TO SELL, DISTRIBUTE, OR OFFER TO DISTRIBUTE
38 THERMOSTATS UNLESS THE WHOLESALER:

39 (A) PARTICIPATES AS A COLLECTION SITE FOR OUT-OF-SERVICE MERCURY THER-
40 MOSTATS;

41 (B) USES THE CONTAINERS PROVIDED BY THE COLLECTION PROGRAM TO FACILI-
42 TATE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS BY CONTRACTORS;

43 (C) COMPLIES WITH THE REQUIREMENTS OF THE COLLECTION PROGRAM RELATED
44 TO THE ACCEPTANCE OF OUT-OF-SERVICE MERCURY THERMOSTATS; AND

45 (D) DISTRIBUTES TO ITS CUSTOMERS THE EDUCATIONAL OUTREACH MATERIALS
46 DEVELOPED UNDER PARAGRAPH (E) OF SUBDIVISION TWO OF THIS SECTION.

47 9. (A) ANY PERSON OR CONTRACTOR WHO REPLACES A MERCURY-CONTAINING
48 THERMOSTAT FROM A BUILDING SHALL DISPOSE OF SUCH THERMOSTAT PURSUANT TO
49 SECTION 27-2105 OF THIS TITLE, OR DELIVER THE MERCURY-CONTAINING THERMO-
50 STAT TO AN APPROPRIATE WHOLESALER OR RETAILER FOR COLLECTION.

51 (B) ANY PERSON OR CONTRACTOR WHO DEMOLISHES A BUILDING SHALL REMOVE
52 ANY MERCURY-CONTAINING THERMOSTATS FROM THE BUILDING PRIOR TO DEMOLITION
53 AND SHALL DISPOSE OF SUCH THERMOSTATS PURSUANT TO SECTION 27-2105 OF
54 THIS TITLE OR SHALL DELIVER THE MERCURY-CONTAINING THERMOSTATS TO AN
55 APPROPRIATE WHOLESALER OR RETAILER FOR COLLECTION.

1 (C) ANY PERSON OR CONTRACTOR WHO REPLACES A MERCURY-CONTAINING THERMO-
2 STAT FROM ANY LOCATION IN THE STATE THAT IS PARTICIPATING IN AN ENERGY
3 EFFICIENCY AND/OR WEATHERIZATION PROGRAM SUPPORTED OR ADMINISTERED IN
4 WHOLE OR IN PART BY ANY DEPARTMENT, AGENCY, INSTRUMENTALITY, OR POLI-
5 TICAL SUBDIVISION OF THE STATE OR CONDUCTED AS A RESULT OF ANY STATUTORY
6 REQUIREMENT, SHALL DELIVER THE MERCURY-CONTAINING THERMOSTATS TO AN
7 APPROPRIATE WHOLESALER OR RETAILER FOR COLLECTION.

8 10. A THERMOSTAT WHOLESALER OR THERMOSTAT RETAILER IS PROHIBITED FROM
9 OFFERING, SELLING OR DISTRIBUTING ANY THERMOSTAT FOR FINAL SALE WHERE
10 THE MANUFACTURER OF SUCH THERMOSTAT IS NOT IN COMPLIANCE WITH THIS
11 SECTION.

12 11. NO LATER THAN JUNE FIRST, TWO THOUSAND FOURTEEN, THE DEPARTMENT
13 SHALL MAINTAIN ON ITS WEBSITE INFORMATION REGARDING THE COLLECTION AND
14 PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS IN THE STATE.
15 THE INFORMATION SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

16 (A) A DESCRIPTION OF THE COLLECTION PROGRAMS ESTABLISHED UNDER THIS
17 SECTION;

18 (B) A REPORT ON THE PROGRESS TOWARDS ACHIEVING THE STATEWIDE
19 COLLECTION GOALS SET FORTH IN SUBDIVISION SIX OF THIS SECTION; AND

20 (C) A LIST OF ALL THERMOSTAT WHOLESALERS, CONTRACTORS, QUALIFIED LOCAL
21 GOVERNMENT AUTHORITIES, AND THERMOSTAT RETAILERS PARTICIPATING IN THE
22 PROGRAM AS COLLECTION SITES.

23 12. NO LATER THAN NOVEMBER FIRST, TWO THOUSAND TWENTY-ONE, THE DEPART-
24 MENT SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR AND THE LEGISLATURE
25 REGARDING THE EFFECTIVENESS OF THE COLLECTION PROGRAMS ESTABLISHED UNDER
26 THIS SECTION, INFORMATION ON THE NUMBER OF OUT-OF-SERVICE THERMOSTATS
27 COLLECTED, HOW THE OUT-OF-SERVICE THERMOSTATS WERE MANAGED, AND AN ESTI-
28 MATE OF THE NUMBER OF THERMOSTATS THAT ARE AVAILABLE FOR COLLECTION. THE
29 DEPARTMENT SHALL USE THIS INFORMATION TO RECOMMEND WHETHER THE
30 PROVISIONS OF THIS SECTION SHOULD BE EXTENDED, ALONG WITH ANY OTHER
31 STATUTORY CHANGES. IN PREPARING THE REPORT, THE DEPARTMENT SHALL CONSULT
32 WITH MERCURY THERMOSTAT MANUFACTURERS, ENVIRONMENTAL ORGANIZATIONS,
33 MUNICIPAL RECYCLERS, AND OTHER INTEREST GROUPS.

34 13. IN CONJUNCTION WITH THE EDUCATIONAL AND OUTREACH PROGRAMS IMPLI-
35 MENTED BY THE THERMOSTAT MANUFACTURERS UNDER THIS SECTION, THE DEPART-
36 MENT SHALL CONDUCT OUTREACH TO PROMOTE THE COLLECTION AND PROPER MANAGE-
37 MENT OF OUT-OF-SERVICE MERCURY THERMOSTATS.

38 14. (A) ANY THERMOSTAT MANUFACTURER THAT VIOLATES ANY PROVISION OF
39 THIS SECTION, OR ANY RULE ADOPTED BY THE NEW YORK STATE ENERGY RESEARCH
40 AND DEVELOPMENT AGENCY, OR THAT FAILS TO PERFORM ANY DUTY IMPOSED BY
41 THIS SECTION SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED FIVE
42 HUNDRED DOLLARS PER DAY FOR EACH VIOLATION. EACH VIOLATION OF THIS
43 SECTION SHALL CONSTITUTE A SEPARATE OFFENSE AND VIOLATION. THERE SHALL
44 BE NO PENALTY UNDER THIS SECTION FOR A THERMOSTAT MANUFACTURER'S FAILURE
45 TO ACHIEVE THE STATEWIDE COLLECTION GOALS SET FORTH IN SUBDIVISION SIX
46 OF THIS SECTION.

47 (B) ANY THERMOSTAT WHOLESALER, CONTRACTOR, OR OTHER PERSON THAT
48 VIOLATES ANY PROVISION OF THIS SECTION, OR ANY RULE ADOPTED BY THE NEW
49 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AGENCY, OR THAT FAILS TO
50 PERFORM ANY DUTY IMPOSED BY THIS SECTION SHALL BE LIABLE FOR A CIVIL
51 PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS PER DAY FOR EACH VIOLATION.
52 EACH VIOLATION OF THIS SECTION SHALL CONSTITUTE A SEPARATE OFFENSE AND
53 VIOLATION.

54 (C) ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID
55 OVER TO THE COMMISSIONER FOR DEPOSIT TO THE ENVIRONMENTAL CONSERVATION

1 FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE
2 LAW.

3 S 5. Section 4 of the public service law is amended by adding a new
4 subdivision 4 to read as follows:

5 4. THE COMMISSION SHALL ENSURE THE COLLECTION AND PROPER MANAGEMENT OF
6 OUT-OF-SERVICE MERCURY THERMOSTATS, GENERATED AS A RESULT OF ANY ENERGY
7 EFFICIENCY PROGRAM ADMINISTERED, REVIEWED, OR OVERSEEN BY THE COMMIS-
8 SION.

9 S 6. Section 1854 of the public authorities law is amended by adding a
10 new subdivision 19 to read as follows:

11 19. TO ENSURE THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE
12 MERCURY THERMOSTATS, GENERATED AS A RESULT OF ANY GRANT OR LOAN PROVIDED
13 BY THE AUTHORITY. ANY ORGANIZATION, OR SUBCONTRACTOR OF SUCH ORGANIZA-
14 TION, USING FUNDING PROVIDED BY THE AUTHORITY, SHALL NOT DISPOSE OF A
15 MERCURY-ADDED CONSUMER PRODUCT IN SOLID WASTE OR OTHERWISE DISPOSE OF
16 SUCH A PRODUCT EXCEPT BY SEPARATED DELIVERY THEREOF TO A SOLID WASTE
17 MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY PERMITTED OR
18 AUTHORIZED PURSUANT TO TITLE SEVEN OR NINE OF THE ENVIRONMENTAL CONSER-
19 VATION LAW. SUCH ORGANIZATION, OR SUBCONTRACTOR OF SUCH ORGANIZATION,
20 USING FUNDING PROVIDED BY THE AUTHORITY, SHALL USE THE CONTAINERS
21 PROVIDED BY THE COLLECTION PROGRAM PURSUANT TO SECTION 27-2119 OF THE
22 ENVIRONMENTAL CONSERVATION LAW TO FACILITATE COLLECTION OF OUT-OF-SER-
23 VICE MERCURY THERMOSTATS BY CONTRACTORS.

24 S 7. Subdivision 3 of section 1894 of the public authorities law is
25 amended by adding a new paragraph (d) to read as follows:

26 (D) THE AUTHORITY SHALL CONSULT WITH REPRESENTATIVES OF THERMOSTAT
27 MANUFACTURERS WHO, INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT
28 MANUFACTURERS, ESTABLISH AND MAINTAIN A COLLECTION PROGRAM FOR THE
29 COLLECTION, TRANSPORTATION, AND PROPER MANAGEMENT OF OUT-OF-SERVICE
30 MERCURY THERMOSTATS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 27-2119
31 OF THE ENVIRONMENTAL CONSERVATION LAW, TO ENSURE THE COLLECTION AND
32 PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS. ANY ORGANIZA-
33 TION, OR SUBCONTRACTOR OF SUCH ORGANIZATION USING FUNDING PROVIDED UNDER
34 THE PROGRAM, SHALL NOT DISPOSE OF A MERCURY-ADDED CONSUMER PRODUCT IN
35 SOLID WASTE OR OTHERWISE DISPOSE OF SUCH A PRODUCT EXCEPT BY SEPARATED
36 DELIVERY THEREOF TO A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE
37 MANAGEMENT FACILITY PERMITTED OR AUTHORIZED PURSUANT TO TITLE SEVEN OR
38 NINE OF THE ENVIRONMENTAL CONSERVATION LAW. SUCH ORGANIZATION, OR
39 SUBCONTRACTOR OF SUCH ORGANIZATION USING FUNDING PROVIDED UNDER THE
40 PROGRAM, SHALL USE THE CONTAINERS PROVIDED BY THE COLLECTION PROGRAM
41 PURSUANT TO SECTION 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW TO
42 FACILITATE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS BY CONTRAC-
43 TORS.

44 S 8. Section 1896 of the public authorities law is amended by adding a
45 new subdivision 6 to read as follows:

46 6. QUALIFIED ENERGY EFFICIENCY SERVICES THAT HAVE BEEN PAID FOR IN
47 WHOLE OR IN PART WITH THE PROCEEDS OF A LOAN UNDER THIS SECTION SHALL
48 ENSURE THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY
49 THERMOSTATS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 27-2119 OF THE
50 ENVIRONMENTAL CONSERVATION LAW. ANY APPLICANT USING FINANCING PROVIDED
51 UNDER THE PROGRAM, SHALL NOT DISPOSE OF A MERCURY-ADDED CONSUMER PRODUCT
52 IN SOLID WASTE OR OTHERWISE DISPOSE OF SUCH A PRODUCT EXCEPT BY SEPA-
53 RATED DELIVERY THEREOF TO A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS
54 WASTE MANAGEMENT FACILITY PERMITTED OR AUTHORIZED PURSUANT TO TITLE
55 SEVEN OR NINE OF THE ENVIRONMENTAL CONSERVATION LAW. SUCH APPLICANT
56 USING FUNDING PROVIDED UNDER THE PROGRAM, SHALL USE THE CONTAINERS

1 PROVIDED BY THE COLLECTION PROGRAM PURSUANT TO SECTION 27-2119 OF THE
2 ENVIRONMENTAL CONSERVATION LAW TO FACILITATE COLLECTION OF OUT-OF-SER-
3 VICE MERCURY THERMOSTATS.

4 S 9. Subdivision 5 of section 97 of the social services law is amended
5 by adding a new closing paragraph to read as follows:

6 PROVIDED HOWEVER, THE DEPARTMENT SHALL ENSURE THAT ANY CONTRACTOR
7 CONDUCTING LOW-COST RESIDENTIAL WEATHERIZATION OR OTHER ENERGY-RELATED
8 HOME REPAIR FOR LOW-INCOME HOUSEHOLDS PROVIDED UNDER THE PROGRAM, SHALL
9 NOT DISPOSE OF A MERCURY-ADDED CONSUMER PRODUCT IN SOLID WASTE OR OTHER-
10 WISE DISPOSE OF SUCH A PRODUCT EXCEPT BY SEPARATED DELIVERY THEREOF TO A
11 SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY
12 PERMITTED OR AUTHORIZED PURSUANT TO TITLE SEVEN OR NINE OF THE ENVIRON-
13 MENTAL CONSERVATION LAW. SUCH ORGANIZATION, OR SUBCONTRACTOR OF SUCH
14 ORGANIZATION USING FUNDING PROVIDED UNDER THE PROGRAM, SHALL USE THE
15 CONTAINERS PROVIDED BY THE COLLECTION PROGRAM PURSUANT TO SECTION
16 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW TO FACILITATE COLLECTION
17 OF OUT-OF-SERVICE MERCURY THERMOSTATS BY CONTRACTORS.

18 S 10. The third undesignated paragraph of section 1005 of the public
19 authorities law, as amended by chapter 287 of the laws of 2004, is
20 amended to read as follows:

21 The authority is further authorized to construct and/or acquire and
22 complete such base load generating, transmission and related facilities
23 as it deems necessary or desirable to assist in maintaining an adequate
24 and dependable supply of electricity by supplying power and energy for
25 the metropolitan transportation authority, its subsidiary corporations,
26 the New York city transit authority, the port authority of New York and
27 New Jersey, the city of New York, the state of New York, the United
28 States, other public corporations and electric corporations within the
29 metropolitan area of the city of New York within the state of New York;
30 provided, however, that (i) the acquisition of completed or partially
31 completed facilities shall be after public hearing and shall be limited
32 to facilities located in New York city or Westchester county and the
33 energy and power generated by such facilities shall be used, to the
34 extent feasible, for the benefit of electric consumers in that area,
35 (ii) not more than one such generating facility shall be acquired in
36 each of New York city and Westchester county, (iii) the price to be paid
37 pursuant to any agreement entered into with respect to the purchase,
38 appropriation or condemnation of any such completed or partially
39 completed facility, as the case may be, shall be subject to the approval
40 of the state comptroller and (iv) transmission facilities shall not be
41 so acquired pursuant to this paragraph unless such acquisition is neces-
42 sary to assure delivery of power and energy produced by any acquired
43 generating facility. The authority is further authorized, to the extent
44 it deems it necessary or desirable, to provide power and energy, as it
45 may determine it to be available, for the use by the Niagara frontier
46 transportation authority or its subsidiary corporation. The authority
47 is authorized to make energy efficiency services, PROVIDED HOWEVER THAT
48 THE AUTHORITY SHALL ENSURE THE COLLECTION AND PROPER MANAGEMENT OF OUT-
49 OF-SERVICE MERCURY THERMOSTATS GENERATED AS A RESULT OF SUCH PROGRAMS,
50 clean energy technologies and, in the event that supplies of power and
51 energy are determined to be available from the competitive market for
52 this purpose, power and energy, available to public and nonpublic
53 elementary and secondary schools throughout the state.

54 S 11. Section 14 of the public housing law is amended by adding a new
55 subdivision 7 to read as follows:

1 7. THE COMMISSIONER SHALL CONSULT WITH REPRESENTATIVES OF THERMOSTAT
2 MANUFACTURERS WHO, INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT
3 MANUFACTURERS, ESTABLISH AND MAINTAIN A COLLECTION PROGRAM FOR THE
4 COLLECTION, TRANSPORTATION, AND PROPER MANAGEMENT OF OUT-OF-SERVICE
5 MERCURY THERMOSTATS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 27-2119
6 OF THE ENVIRONMENTAL CONSERVATION LAW, TO ENSURE THE COLLECTION AND
7 PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS, GENERATED AS
8 DIRECT OR INDIRECT RESULT OF THE COMMISSIONERS ACTION. ANY ORGANIZATION,
9 OR SUBCONTRACTOR OF SUCH ORGANIZATION USING FUNDING OR FINANCING
10 PROVIDED BY A POWER GRANTED TO THE COMMISSIONER, SHALL NOT DISPOSE OF A
11 MERCURY-ADDED CONSUMER PRODUCT IN SOLID WASTE OR OTHERWISE DISPOSE OF
12 SUCH A PRODUCT EXCEPT BY SEPARATED DELIVERY THEREOF TO A SOLID WASTE
13 MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY PERMITTED OR
14 AUTHORIZED PURSUANT TO TITLE SEVEN OR NINE OF THE ENVIRONMENTAL CONSER-
15 VATION LAW.

16 S 12. Sections 1020-ii, 1020-jj and 1020-kk of the public authorities
17 law, as renumbered by chapter 388 of the laws of 2011, are renumbered
18 sections 1020-jj, 1020-kk and 1020-ll and a new section 1020-ii is added
19 to read as follows:

20 S 1020-II. MERCURY THERMOSTAT COLLECTION. THE AUTHORITY SHALL CONSULT
21 WITH REPRESENTATIVES OF THERMOSTAT MANUFACTURERS WHO, INDIVIDUALLY OR
22 COLLECTIVELY WITH OTHER THERMOSTAT MANUFACTURERS, ESTABLISH AND MAINTAIN
23 A COLLECTION PROGRAM FOR THE COLLECTION, TRANSPORTATION, AND PROPER
24 MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS IN ACCORDANCE WITH THE
25 PROVISIONS OF SECTION 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW, TO
26 ENSURE THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY
27 THERMOSTATS.

28 S 13. This act shall take effect immediately and shall expire and be
29 deemed repealed January 1, 2023.