

4345--A

2011-2012 Regular Sessions

I N S E N A T E

March 30, 2011

Introduced by Sens. GRISANTI, 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

AN ACT to amend the environmental conservation 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. The environmental conservation law is amended by adding a new
4 section 27-2119 to read as follows:
5 S 27-2119. MERCURY-CONTAINING THERMOSTAT COLLECTION.
6 1. FOR PURPOSES OF THIS SECTION:
7 (A) "COLLECTION PROGRAM" MEANS A SYSTEM FOR THE COLLECTION, TRANSPOR-
8 TATION, RECYCLING, AND DISPOSAL OF OUT-OF-SERVICE MERCURY THERMOSTATS
9 THAT IS FINANCED AND MANAGED OR PROVIDED BY A THERMOSTAT MANUFACTURER
10 INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT MANUFACTURERS IN
11 ACCORDANCE WITH THIS SECTION.
12 (B) "CONTRACTOR" MEANS A PERSON ENGAGED IN THE BUSINESS OF INSTALLA-
13 TION, SERVICE, OR REMOVAL OF HEATING, VENTILATION, AND AIR-CONDITIONING
14 COMPONENTS.
15 (C) "MERCURY THERMOSTAT" MEANS A THERMOSTAT THAT MEETS THE DEFINITION
16 OF A "MERCURY THERMOSTAT" UNDER SUBSECTION (F) OF SECTION 22.23B OF THE
17 ENVIRONMENTAL PROTECTION ACT.
18 (D) "OUT-OF-SERVICE MERCURY THERMOSTAT" MEANS A MERCURY THERMOSTAT
19 THAT IS REMOVED, REPLACED, OR OTHERWISE TAKEN OUT OF SERVICE.
20 (E) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CO-PARTNERSHIP, FIRM,
21 COMPANY, LIMITED LIABILITY COMPANY, CORPORATION, ASSOCIATION, JOINT
22 STOCK COMPANY, TRUST, ESTATE, POLITICAL SUBDIVISION, STATE AGENCY, OR

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

LBD10551-04-1

1 ANY OTHER LEGAL ENTITY, OR ITS LEGAL REPRESENTATIVES, AGENTS, OR
2 ASSIGNS.

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

8 (G) "QUALIFIED LOCAL GOVERNMENT AUTHORITIES" MEANS HOUSEHOLD HAZARDOUS
9 WASTE FACILITIES, SOLID WASTE MANAGEMENT AGENCIES, ENVIRONMENTAL MANAGE-
10 MENT AGENCIES, OR DEPARTMENTS OF PUBLIC HEALTH.

11 (H) "THERMOSTAT MANUFACTURER" MEANS A PERSON WHO OWNS OR OWNED A NAME
12 BRAND OF ONE OR MORE MERCURY THERMOSTATS SOLD IN THE STATE.

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

19 (J) "THERMOSTAT WHOLESALER" MEANS A PERSON WHO IS ENGAGED IN THE
20 DISTRIBUTION AND WHOLESALE SELLING OF HEATING, VENTILATION, AND AIR-CON-
21 DITIONING COMPONENTS, INCLUDING, BUT NOT LIMITED TO, THERMOSTATS, TO
22 CONTRACTORS, AND WHOSE TOTAL WHOLESALE SALES ACCOUNT FOR EIGHTY PERCENT
23 OR MORE OF ITS TOTAL SALES. A THERMOSTAT MANUFACTURER, AS DEFINED IN
24 PARAGRAPH (H) OF THIS SUBDIVISION, IS NOT A THERMOSTAT WHOLESALER.

25 2. EACH THERMOSTAT MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY
26 WITH OTHER THERMOSTAT MANUFACTURERS, ESTABLISH AND MAINTAIN A COLLECTION
27 PROGRAM FOR THE COLLECTION, TRANSPORTATION, AND PROPER MANAGEMENT OF
28 OUT-OF-SERVICE MERCURY THERMOSTATS IN ACCORDANCE WITH THE PROVISIONS OF
29 THIS SECTION.

30 3. EACH THERMOSTAT MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY
31 WITH OTHER THERMOSTAT MANUFACTURERS THROUGH A COLLECTION PROGRAM, DO THE
32 FOLLOWING:

33 (A) ON AND AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, COMPILE A LIST
34 OF THERMOSTAT WHOLESALERS IN THE STATE AND OFFER EACH THERMOSTAT WHOLE-
35 SALER CONTAINERS FOR THE COLLECTION OF OUT-OF-SERVICE MERCURY THERMO-
36 STATS.

37 (B) ON AND AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, MAKE COLLECTION
38 CONTAINERS AVAILABLE TO ALL QUALIFIED CONTRACTORS, THERMOSTAT WHOLE-
39 SALERS, THERMOSTAT RETAILERS, AND QUALIFIED LOCAL GOVERNMENT AUTHORITIES
40 IN THIS STATE THAT REQUEST A CONTAINER. EACH THERMOSTAT MANUFACTURER
41 SHALL WITH EACH CONTAINER INCLUDE INFORMATION REGARDING THE PROPER
42 MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS AS UNIVERSAL WASTE IN
43 ACCORDANCE WITH THE COLLECTION PROGRAM AND DEPARTMENT RULES.

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

47 (D) NOT INCLUDE ANY FEES OR OTHER CHARGES TO PERSONS PARTICIPATING IN
48 THE PROGRAM, EXCEPT THAT EACH THERMOSTAT WHOLESALER, QUALIFIED CONTRAC-
49 TOR, QUALIFIED LOCAL GOVERNMENT AUTHORITY, OR THERMOSTAT RETAILER THAT
50 IS PROVIDED WITH ONE OR MORE COLLECTION CONTAINERS MAY BE CHARGED A
51 ONE-TIME PROGRAM ADMINISTRATION FEE NOT TO EXCEED SEVENTY-FIVE DOLLARS
52 PER COLLECTION CONTAINER.

53 (E) FROM JANUARY FIRST, TWO THOUSAND THIRTEEN, THROUGH DECEMBER THIR-
54 TY-FIRST, TWO THOUSAND FIFTEEN, CONDUCT EDUCATION AND OUTREACH EFFORTS,
55 INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

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

4 (2) ESTABLISH AND MAINTAIN A PUBLICLY ACCESSIBLE WEBSITE FOR THE
5 DISSEMINATION OF EDUCATIONAL MATERIALS TO PROMOTE THE COLLECTION OF
6 OUT-OF-SERVICE MERCURY THERMOSTATS. THIS WEBSITE SHALL INCLUDE TEMPLATES
7 OF THE EDUCATIONAL MATERIALS ON THE INTERNET WEBSITE IN A FORM AND
8 FORMAT THAT CAN BE EASILY DOWNLOADED AND PRINTED. THE LINK TO THIS
9 WEBSITE SHALL BE PROVIDED TO THE DEPARTMENT;

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

14 (4) DEVELOP AND IMPLEMENT STRATEGIES TO ENCOURAGE PARTICIPATING THER-
15 MOSTAT RETAILERS TO EDUCATE THEIR CUSTOMERS ON THE IMPORTANCE OF AND
16 OPPORTUNITIES FOR COLLECTING AND RECYCLING OUT-OF-SERVICE MERCURY THER-
17 MOSTATS;

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

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

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

28 (F) ON OR BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, DEVELOP AND
29 UPDATE AS NECESSARY EDUCATIONAL AND OTHER OUTREACH MATERIALS FOR
30 DISTRIBUTION TO CONTRACTORS, CONTRACTOR ASSOCIATIONS, AND CONSUMERS.
31 THOSE MATERIALS SHALL BE MADE AVAILABLE FOR USE BY PARTICIPATING THERMO-
32 STAT WHOLESALERS, THERMOSTAT RETAILERS, CONTRACTORS, AND QUALIFIED LOCAL
33 GOVERNMENT AUTHORITIES. THE MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED
34 TO, THE FOLLOWING:

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

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

44 (G) PROVIDE AN OPPORTUNITY FOR THE DEPARTMENT AND OTHER INTERESTED
45 STAKEHOLDERS TO OFFER FEEDBACK AND SUGGESTIONS ON THE COLLECTION
46 PROGRAM.

47 4. IF THE COLLECTION PROGRAMS DO NOT COLLECTIVELY ACHIEVE THE
48 COLLECTION GOALS PROVIDED FOR IN SUBDIVISION EIGHT OF THIS SECTION FOR
49 CALENDAR YEAR TWO THOUSAND FOURTEEN, TWO THOUSAND SIXTEEN, TWO THOUSAND
50 EIGHTEEN OR TWO THOUSAND TWENTY, THERMOSTAT MANUFACTURERS SHALL, INDI-
51 VIDUALLY OR COLLECTIVELY, SUBMIT TO THE DEPARTMENT FOR REVIEW AND
52 APPROVAL PROPOSED REVISIONS TO THE COLLECTION PROGRAMS THAT ARE DESIGNED
53 TO ACHIEVE THE GOALS IN SUBSEQUENT CALENDAR YEARS. THE PROPOSED
54 REVISIONS SHALL BE SUBMITTED TO THE DEPARTMENT WITH THE ANNUAL REPORT
55 REQUIRED IN SUBDIVISION SEVEN OF THIS SECTION.

1 5. WITHIN NINETY DAYS AFTER RECEIPT OF THE PROPOSED COLLECTION PROGRAM
2 REVISIONS REQUIRED UNDER SUBDIVISION FOUR OF THIS SECTION, THE DEPART-
3 MENT SHALL REVIEW AND APPROVE, DISAPPROVE, OR APPROVE WITH MODIFICATIONS
4 THE PROPOSED COLLECTION PROGRAM REVISIONS.

5 (A) THE DEPARTMENT SHALL APPROVE PROPOSED REVISIONS IF THE DEPARTMENT
6 DETERMINES THAT THE REVISED COLLECTION PROGRAMS WILL COLLECTIVELY
7 ACHIEVE THE COLLECTION GOALS SET FORTH IN SUBDIVISION EIGHT OF THIS
8 SECTION.

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

21 (C) PRIOR TO ISSUING ANY DECISION UNDER THIS SUBDIVISION, THE DEPART-
22 MENT SHALL CONSULT WITH THERMOSTAT MANUFACTURERS AND OTHER INTERESTED
23 GROUPS.

24 (D) THERMOSTAT MANUFACTURERS SHALL BEGIN THE PROCESS TO IMPLEMENT
25 COLLECTION PROGRAM REVISIONS APPROVED BY THE DEPARTMENT, WITH OR WITHOUT
26 MODIFICATIONS, WITHIN NINETY DAYS AFTER APPROVAL.

27 (E) IF THE PROGRAM REVISIONS ARE DISAPPROVED, THE DEPARTMENT SHALL
28 NOTIFY THE THERMOSTAT MANUFACTURERS IN WRITING AS TO THE REASONS FOR THE
29 DISAPPROVAL. THE THERMOSTAT MANUFACTURERS SHALL HAVE THIRTY-FIVE DAYS TO
30 SUBMIT A NEW COLLECTION PROGRAM REVISION.

31 6. NO LATER THAN SEPTEMBER FIRST, TWO THOUSAND THIRTEEN, AND NO LATER
32 THAN SEPTEMBER FIRST OF EACH YEAR THEREAFTER, EACH THERMOSTAT MANUFAC-
33 Turer SHALL, INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT MANUFAC-
34 Turers, SUBMIT A MID-TERM REPORT ON ITS COLLECTION PROGRAM TO THE
35 DEPARTMENT COVERING THE SIX-MONTH PERIOD BEGINNING ON JANUARY FIRST OF
36 THE YEAR IN WHICH THE REPORT IS DUE. THE MID-TERM REPORT SHALL IDENTIFY
37 THE NUMBER OF OUT-OF-SERVICE MERCURY THERMOSTATS COLLECTED UNDER THE
38 PROGRAM AND A LISTING OF ALL COLLECTION SITES IN THE STATE.

39 7. NO LATER THAN APRIL FIRST, TWO THOUSAND FOURTEEN, AND NO LATER THAN
40 APRIL FIRST OF EACH YEAR THEREAFTER, EACH THERMOSTAT MANUFACTURER SHALL,
41 INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT MANUFACTURERS, SUBMIT
42 AN ANNUAL REPORT ON ITS COLLECTION PROGRAM TO THE DEPARTMENT COVERING
43 THE ONE-YEAR PERIOD ENDING DECEMBER THIRTY-FIRST OF THE PREVIOUS YEAR.
44 EACH REPORT SHALL BE POSTED ON THE MANUFACTURER'S OR PROGRAM OPERATOR'S
45 RESPECTIVE INTERNET WEBSITE. THE ANNUAL REPORT SHALL INCLUDE, BUT NOT BE
46 LIMITED TO, THE FOLLOWING:

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

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

52 (C) THE NUMBER OF OUT-OF-SERVICE MERCURY THERMOSTATS COLLECTED IN EACH
53 OTHER STATE DURING THE PREVIOUS CALENDAR YEAR;

54 (D) AN EVALUATION OF THE EFFECTIVENESS OF THE COLLECTION PROGRAM,
55 INCLUDING BUT NOT LIMITED TO ITS EFFECTIVENESS RELATIVE TO OTHER STATES;

1 (E) A LIST OF ALL THERMOSTAT WHOLESALERS, CONTRACTORS, QUALIFIED LOCAL
2 GOVERNMENT AUTHORITIES, AND THERMOSTAT RETAILERS PARTICIPATING IN THE
3 PROGRAM AS MERCURY THERMOSTAT COLLECTION SITES AND THE NUMBER OF
4 OUT-OF-SERVICE MERCURY THERMOSTATS RETURNED BY EACH;

5 (F) AN ACCOUNTING OF THE PROGRAM'S ADMINISTRATIVE COSTS;

6 (G) A DESCRIPTION OF OUTREACH STRATEGIES EMPLOYED UNDER PARAGRAPH (E)
7 OF SUBDIVISION THREE OF THIS SECTION;

8 (H) EXAMPLES OF OUTREACH AND EDUCATIONAL MATERIALS USED UNDER PARA-
9 GRAPH (F) OF SUBDIVISION THREE OF THIS SECTION;

10 (I) THE INTERNET WEBSITE ADDRESS OR ADDRESSES WHERE THE ANNUAL REPORT
11 MAY BE VIEWED ONLINE;

12 (J) A DESCRIPTION OF HOW THE OUT-OF-SERVICE MERCURY THERMOSTATS WERE
13 MANAGED;

14 (K) ANY MODIFICATIONS THAT THE THERMOSTAT MANUFACTURER HAS MADE OR IS
15 PLANNING TO MAKE IN ITS COLLECTION PROGRAM; AND

16 (L) THE IDENTIFICATION OF A COLLECTION PROGRAM CONTACT AND THE BUSI-
17 NESS PHONE NUMBER, MAILING ADDRESS, AND E-MAIL ADDRESS FOR THE CONTACT.

18 8. THE COLLECTION PROGRAMS ESTABLISHED BY THERMOSTAT MANUFACTURERS
19 UNDER THIS SECTION SHALL BE DESIGNED TO COLLECTIVELY ACHIEVE THE FOLLOW-
20 ING STATEWIDE GOALS:

21 (A) FOR CALENDAR YEAR TWO THOUSAND THIRTEEN, THE COLLECTION OF AT
22 LEAST SEVENTY-FIVE THOUSAND MERCURY THERMOSTATS TAKEN OUT OF SERVICE IN
23 THE STATE DURING THE CALENDAR YEAR.

24 (B) FOR CALENDAR YEAR TWO THOUSAND FOURTEEN, THE COLLECTION OF AT
25 LEAST TWENTY-TWO THOUSAND FIVE HUNDRED MERCURY THERMOSTATS TAKEN OUT OF
26 SERVICE IN THE STATE DURING THE CALENDAR YEAR.

27 (C) FOR CALENDAR YEARS TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND TWEN-
28 TY-TWO, THE COLLECTION GOALS SHALL BE ESTABLISHED BY THE DEPARTMENT. THE
29 DEPARTMENT SHALL ESTABLISH COLLECTION GOALS NO LATER THAN NOVEMBER
30 FIRST, TWO THOUSAND FOURTEEN FOR CALENDAR YEAR TWO THOUSAND FIFTEEN, AND
31 NOVEMBER FIRST ANNUALLY THEREAFTER FOR EACH SUBSEQUENT YEAR. THE
32 COLLECTION GOALS ESTABLISHED BY THE DEPARTMENT SHALL MAXIMIZE THE ANNUAL
33 COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS IN THE STATE. IN DEVEL-
34 OPING THE COLLECTION GOALS, THE DEPARTMENT SHALL TAKE INTO ACCOUNT, AT A
35 MINIMUM, (I) THE EFFECTIVENESS OF COLLECTION PROGRAMS FOR OUT-OF-SERVICE
36 MERCURY THERMOSTATS IN THE STATE AND OTHER STATES, INCLUDING EDUCATION
37 AND OUTREACH EFFORTS, (II) COLLECTION REQUIREMENTS IN OTHER STATES,
38 (III) ANY REPORTS OR STUDIES ON THE NUMBER OF OUT-OF-SERVICE MERCURY
39 THERMOSTATS THAT ARE AVAILABLE FOR COLLECTION IN THIS STATE, OTHER
40 STATES, AND NATIONALLY, AND (IV) OTHER FACTORS. PRIOR TO ESTABLISHING
41 THE COLLECTION GOALS, THE DEPARTMENT SHALL CONSULT WITH STAKEHOLDER
42 GROUPS THAT INCLUDE, AT A MINIMUM, REPRESENTATIVES OF THERMOSTAT
43 MANUFACTURERS, ENVIRONMENTAL GROUPS, THERMOSTAT WHOLESALERS, CONTRAC-
44 TORS, AND THERMOSTAT RETAILERS.

45 9. ALL CONTRACTORS, THERMOSTAT WHOLESALERS, THERMOSTAT MANUFACTURERS,
46 AND THERMOSTAT RETAILERS PARTICIPATING IN THE PROGRAM SHALL HANDLE AND
47 MANAGE THE OUT-OF-SERVICE MERCURY THERMOSTATS IN A MANNER THAT IS
48 CONSISTENT WITH THE PROVISIONS OF THE COLLECTION, TREATMENT AND DISPOSAL
49 OF REFUSE AND OTHER SOLID WASTE AS REGULATED BY THE DEPARTMENT.

50 10. ON AND AFTER JULY FIRST, TWO THOUSAND THIRTEEN, NO THERMOSTAT
51 WHOLESALER SHALL SELL, OFFER TO SELL, DISTRIBUTE, OR OFFER TO DISTRIBUTE
52 THERMOSTATS UNLESS THE WHOLESALER:

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

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

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

3 (D) DISTRIBUTES TO ITS CUSTOMERS THE EDUCATIONAL OUTREACH MATERIALS
4 DEVELOPED UNDER PARAGRAPH (F) OF SUBDIVISION THREE OF THIS SECTION.

5 11. (A) ANY PERSON OR CONTRACTOR WHO REPLACES A MERCURY-CONTAINING
6 THERMOSTAT FROM A BUILDING SHALL DISPOSE OF SUCH THERMOSTAT PURSUANT TO
7 SECTION 27-2105 OF THIS TITLE, OR DELIVER THE MERCURY-CONTAINING THERMO-
8 STAT TO AN APPROPRIATE WHOLESALER OR RETAILER FOR COLLECTION.

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

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

21 12. A THERMOSTAT WHOLESALER OR THERMOSTAT RETAILER IS PROHIBITED FROM
22 OFFERING, SELLING OR DISTRIBUTING ANY THERMOSTAT FOR FINAL SALE WHERE
23 THE MANUFACTURER OF SUCH THERMOSTAT IS NOT IN COMPLIANCE WITH THIS
24 SECTION.

25 13. NO LATER THAN JUNE FIRST, TWO THOUSAND THIRTEEN, THE DEPARTMENT
26 SHALL MAINTAIN ON ITS WEBSITE INFORMATION REGARDING THE COLLECTION AND
27 PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS IN THE STATE.
28 THE INFORMATION SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

29 (A) A DESCRIPTION OF THE COLLECTION PROGRAMS ESTABLISHED UNDER THIS
30 SECTION;

31 (B) A REPORT ON THE PROGRESS TOWARDS ACHIEVING THE STATEWIDE
32 COLLECTION GOALS SET FORTH IN SUBDIVISION EIGHT OF THIS SECTION; AND

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

36 14. NO LATER THAN NOVEMBER FIRST, TWO THOUSAND TWENTY-ONE, THE DEPART-
37 MENT SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR AND THE LEGISLATURE
38 REGARDING THE EFFECTIVENESS OF THE COLLECTION PROGRAMS ESTABLISHED UNDER
39 THIS SECTION, INFORMATION ON THE NUMBER OF OUT-OF-SERVICE THERMOSTATS
40 COLLECTED, HOW THE OUT-OF-SERVICE THERMOSTATS WERE MANAGED, AND AN ESTI-
41 MATE OF THE NUMBER OF THERMOSTATS THAT ARE AVAILABLE FOR COLLECTION. THE
42 DEPARTMENT SHALL USE THIS INFORMATION TO RECOMMEND WHETHER THE
43 PROVISIONS OF THIS SECTION SHOULD BE EXTENDED, ALONG WITH ANY OTHER
44 STATUTORY CHANGES. IN PREPARING THE REPORT, THE DEPARTMENT SHALL CONSULT
45 WITH MERCURY THERMOSTAT MANUFACTURERS, ENVIRONMENTAL ORGANIZATIONS, AND
46 OTHER INTEREST GROUPS.

47 15. IN CONJUNCTION WITH THE EDUCATIONAL AND OUTREACH PROGRAMS IMPLI-
48 MENTED BY THE THERMOSTAT MANUFACTURERS UNDER THIS SECTION, THE DEPART-
49 MENT SHALL CONDUCT OUTREACH TO PROMOTE THE COLLECTION AND PROPER MANAGE-
50 MENT OF OUT-OF-SERVICE MERCURY THERMOSTATS.

51 S 3. This act shall take effect immediately and shall expire and be
52 deemed repealed January 1, 2023.