S T A T E O F N E W Y O R K

4345--B

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 -- 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:

Section 1. Short title. This act may be cited as the "Mercury Thermostat Collection Act".

S 2. The environmental conservation law is amended by adding a new section 27-2119 to read as follows:

S 27-2119. MERCURY-CONTAINING THERMOSTAT COLLECTION.

1. FOR PURPOSES OF THIS SECTION:

(A) "COLLECTION PROGRAM" MEANS A SYSTEM FOR THE COLLECTION, TRANSPORTATION, RECYCLING, AND DISPOSAL OF OUT-OF-SERVICE MERCURY THERMOSTATS THAT IS FINANCED AND MANAGED OR PROVIDED BY A THERMOSTAT MANUFACTURER INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT MANUFACTURERS IN ACCORDANCE WITH THIS SECTION.

(B) "CONTRACTOR" MEANS A PERSON ENGAGED IN THE BUSINESS OF INSTALLATION, SERVICE, OR REMOVAL OF HEATING, VENTILATION, AND AIR-CONDITIONING COMPONENTS.

(C) "MERCURY THERMOSTAT" MEANS A THERMOSTAT THAT MEETS THE DEFINITION OF A "MERCURY THERMOSTAT" UNDER SUBSECTION (F) OF SECTION 22.23B OF THE ENVIRONMENTAL PROTECTION ACT.

(D) "OUT-OF-SERVICE MERCURY THERMOSTAT" MEANS A MERCURY THERMOSTAT THAT IS REMOVED, REPLACED, OR OTHERWISE TAKEN OUT OF SERVICE.

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

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(E) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CO-PARTNERSHIP, FIRM, COMPANY, LIMITED LIABILITY COMPANY, CORPORATION, ASSOCIATION, JOINT STOCK COMPANY, TRUST, ESTATE, POLITICAL SUBDIVISION, STATE AGENCY, OR ANY OTHER LEGAL ENTITY, OR ITS LEGAL REPRESENTATIVES, AGENTS, OR ASSIGNS.

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

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

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

(I) "THERMOSTAT RETAILER" MEANS A PERSON WHO SELLS THERMOSTATS OF ANY KIND PRIMARILY TO HOMEOWNERS OR OTHER NONPROFESSIONALS THROUGH ANY SALE OR DISTRIBUTION MECHANISM, INCLUDING, BUT NOT LIMITED TO, SALES USING THE INTERNET OR CATALOGS. A THERMOSTAT RETAILER THAT MEETS THE DEFINITION OF THERMOSTAT WHOLESALER SHALL BE CONSIDERED A THERMOSTAT WHOLESALER.

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

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

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

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

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

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

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

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

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

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

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

(4) DEVELOP AND IMPLEMENT STRATEGIES TO ENCOURAGE PARTICIPATING THERMOSTAT RETAILERS TO EDUCATE THEIR CUSTOMERS ON THE IMPORTANCE OF AND OPPORTUNITIES FOR COLLECTING AND RECYCLING OUT-OF-SERVICE MERCURY THERMOSTATS;

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

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

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

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

(1) SIGNAGE, SUCH AS POSTERS AND CLING SIGNAGE, THAT CAN BE PROMINENTLY DISPLAYED TO PROMOTE THE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS TO CONTRACTORS AND CONSUMERS; AND

(2) WRITTEN MATERIALS OR TEMPLATES OF MATERIALS FOR REPRODUCTION BY THERMOSTAT WHOLESALERS AND THERMOSTAT RETAILERS TO BE PROVIDED TO CUSTOMERS AT THE TIME OF PURCHASE OR DELIVERY OF A THERMOSTAT. THE MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON THE IMPORTANCE OF PROPERLY MANAGING OUT-OF-SERVICE MERCURY THERMOSTATS AND OPPORTUNITIES FOR THE COLLECTION OF THOSE THERMOSTATS.

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

4. IF THE COLLECTION PROGRAMS DO NOT COLLECTIVELY ACHIEVE THE COLLECTION GOALS PROVIDED FOR IN SUBDIVISION EIGHT OF THIS SECTION FOR CALENDAR YEAR TWO THOUSAND FOURTEEN, TWO THOUSAND SIXTEEN, TWO THOUSAND EIGHTEEN OR TWO THOUSAND TWENTY, THERMOSTAT MANUFACTURERS SHALL, INDIVIDUALLY OR COLLECTIVELY, SUBMIT TO THE DEPARTMENT FOR REVIEW AND APPROVAL PROPOSED REVISIONS TO THE COLLECTION PROGRAMS THAT ARE DESIGNED TO ACHIEVE THE GOALS IN SUBSEQUENT CALENDAR YEARS. THE PROPOSED

REVISIONS SHALL BE SUBMITTED TO THE DEPARTMENT WITH THE ANNUAL REPORT REQUIRED IN SUBDIVISION SEVEN OF THIS SECTION.

5. WITHIN NINETY DAYS AFTER RECEIPT OF THE PROPOSED COLLECTION PROGRAM REVISIONS REQUIRED UNDER SUBDIVISION FOUR OF THIS SECTION, THE DEPARTMENT SHALL REVIEW AND APPROVE, DISAPPROVE, OR APPROVE WITH MODIFICATIONS THE PROPOSED COLLECTION PROGRAM REVISIONS.

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

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

(C) PRIOR TO ISSUING ANY DECISION UNDER THIS SUBDIVISION, THE DEPARTMENT SHALL CONSULT WITH THERMOSTAT MANUFACTURERS AND OTHER INTERESTED GROUPS.

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

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

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

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

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

(B) THE ESTIMATED TOTAL AMOUNT OF MERCURY CONTAINED IN THE OUT-OF-SERVICE MERCURY THERMOSTATS COLLECTED UNDER THIS SECTION DURING THE PREVIOUS CALENDAR YEAR;

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

(D) AN EVALUATION OF THE EFFECTIVENESS OF THE COLLECTION PROGRAM, INCLUDING BUT NOT LIMITED TO ITS EFFECTIVENESS RELATIVE TO OTHER STATES;
(E) A LIST OF ALL THERMOSTAT WHOLESALERS, CONTRACTORS, QUALIFIED LOCAL GOVERNMENT AUTHORITIES, AND THERMOSTAT RETAILERS PARTICIPATING IN THE PROGRAM AS MERCURY THERMOSTAT COLLECTION SITES AND THE NUMBER OF OUT-OF-SERVICE MERCURY THERMOSTATS RETURNED BY EACH;
(F) AN ACCOUNTING OF THE PROGRAM'S ADMINISTRATIVE COSTS;
(G) A DESCRIPTION OF OUTREACH STRATEGIES EMPLOYED UNDER PARAGRAPH (E) OF SUBDIVISION THREE OF THIS SECTION;
(H) EXAMPLES OF OUTREACH AND EDUCATIONAL MATERIALS USED UNDER PARAGRAPH (F) OF SUBDIVISION THREE OF THIS SECTION;
(I) THE INTERNET WEBSITE ADDRESS OR ADDRESSES WHERE THE ANNUAL REPORT MAY BE VIEWED ONLINE;
(J) A DESCRIPTION OF HOW THE OUT-OF-SERVICE MERCURY THERMOSTATS WERE MANAGED;
(K) ANY MODIFICATIONS THAT THE THERMOSTAT MANUFACTURER HAS MADE OR IS PLANNING TO MAKE IN ITS COLLECTION PROGRAM; AND
(L) THE IDENTIFICATION OF A COLLECTION PROGRAM CONTACT AND THE BUSINESS PHONE NUMBER, MAILING ADDRESS, AND E-MAIL ADDRESS FOR THE CONTACT.
8. THE COLLECTION PROGRAMS ESTABLISHED BY THERMOSTAT MANUFACTURERS UNDER THIS SECTION SHALL BE DESIGNED TO COLLECTIVELY ACHIEVE THE FOLLOWING STATEWIDE GOALS:
(A) FOR CALENDAR YEAR TWO THOUSAND THIRTEEN, THE COLLECTION OF AT LEAST SEVENTY-FIVE HUNDRED MERCURY THERMOSTATS TAKEN OUT OF SERVICE IN THE STATE DURING THE CALENDAR YEAR.
(B) FOR CALENDAR YEAR TWO THOUSAND FOURTEEN, THE COLLECTION OF AT LEAST TWENTY-TWO THOUSAND FIVE HUNDRED MERCURY THERMOSTATS TAKEN OUT OF SERVICE IN THE STATE DURING THE CALENDAR YEAR.
(C) FOR CALENDAR YEARS TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND TWENTY-TWO, THE COLLECTION GOALS SHALL BE ESTABLISHED BY THE DEPARTMENT. THE DEPARTMENT SHALL ESTABLISH COLLECTION GOALS NO LATER THAN NOVEMBER FIRST, TWO THOUSAND FOURTEEN FOR CALENDAR YEAR TWO THOUSAND FIFTEEN, AND NOVEMBER FIRST ANNUALLY THEREAFTER FOR EACH SUBSEQUENT YEAR. THE COLLECTION GOALS ESTABLISHED BY THE DEPARTMENT SHALL MAXIMIZE THE ANNUAL COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS IN THE STATE. IN DEVELOPING THE COLLECTION GOALS, THE DEPARTMENT SHALL TAKE INTO ACCOUNT, AT A MINIMUM, (I) THE EFFECTIVENESS OF COLLECTION PROGRAMS FOR OUT-OF-SERVICE MERCURY THERMOSTATS IN THE STATE AND OTHER STATES, INCLUDING EDUCATION AND OUTREACH EFFORTS, (II) COLLECTION REQUIREMENTS IN OTHER STATES, (III) ANY REPORTS OR STUDIES ON THE NUMBER OF OUT-OF-SERVICE MERCURY THERMOSTATS THAT ARE AVAILABLE FOR COLLECTION IN THIS STATE, OTHER STATES, AND NATIONALLY, AND (IV) OTHER FACTORS. PRIOR TO ESTABLISHING THE COLLECTION GOALS, THE DEPARTMENT SHALL CONSULT WITH STAKEHOLDER GROUPS THAT INCLUDE, AT A MINIMUM, REPRESENTATIVES OF THERMOSTAT MANUFACTURERS, ENVIRONMENTAL GROUPS, THERMOSTAT WHOLESALERS, CONTRACTORS, AND THERMOSTAT RETAILERS.
9. ALL CONTRACTORS, THERMOSTAT WHOLESALERS, THERMOSTAT MANUFACTURERS, AND THERMOSTAT RETAILERS PARTICIPATING IN THE PROGRAM SHALL HANDLE AND MANAGE THE OUT-OF-SERVICE MERCURY THERMOSTATS IN A MANNER THAT IS CONSISTENT WITH THE PROVISIONS OF THE COLLECTION, TREATMENT AND DISPOSAL OF REFUSE AND OTHER SOLID WASTE AS REGULATED BY THE DEPARTMENT.
10. ON AND AFTER JULY FIRST, TWO THOUSAND THIRTEEN, NO THERMOSTAT WHOLESALER SHALL SELL, OFFER TO SELL, DISTRIBUTE, OR OFFER TO DISTRIBUTE THERMOSTATS UNLESS THE WHOLESALER:
(A) PARTICIPATES AS A COLLECTION SITE FOR OUT-OF-SERVICE MERCURY THERMOSTATS;

(B) USES THE CONTAINERS PROVIDED BY THE COLLECTION PROGRAM TO FACILITATE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS BY CONTRACTORS;

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

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

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

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

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

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

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

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

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

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

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

15. IN CONJUNCTION WITH THE EDUCATIONAL AND OUTREACH PROGRAMS IMPLEMENTED BY THE THERMOSTAT MANUFACTURERS UNDER THIS SECTION, THE DEPARTMENT SHALL CONDUCT OUTREACH TO PROMOTE THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS.

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