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

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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. GRISANTI, MARTINS -- 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, 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:

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

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

30. "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.

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

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

33. "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.

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

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

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

36. "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.

37. "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 SUBDIVISION THIRTY-FIVE OF THIS SECTION, IS NOT A THERMOSTAT WHOLESALER.

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

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

S 4. 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. 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.

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

(A) ON AND AFTER JULY FIRST, TWO THOUSAND FOURTEEN, 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 JULY FIRST, TWO THOUSAND FOURTEEN, 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) FROM JULY FIRST, TWO THOUSAND FOURTEEN, THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, 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.

(E) ON OR BEFORE JULY FIRST, TWO THOUSAND FOURTEEN, 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.

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

3. IF THE COLLECTION PROGRAMS DO NOT COLLECTIVELY ACHIEVE THE COLLECTION GOALS PROVIDED FOR IN SUBDIVISION SIX OF THIS SECTION FOR CALENDAR YEAR TWO THOUSAND FIFTEEN OR ANY YEAR THEREAFTER THE DEPARTMENT SHALL CONFER WITH THERMOSTAT MANUFACTURERS, THERMOSTAT WHOLESALERS, QUALIFIED CONTRACTORS, THE NEW YORK STATE ENERGY RESEARCH DEVELOPMENT AUTHORITY, NEW YORK STATE PUBLIC SERVICE COMMISSION, DIVISION OF HOUSING AND COMMUNITY RENEWAL, ENVIRONMENTAL GROUPS, MUNICIPAL RECYCLERS AND OTHER STAKEHOLDERS THAT MAY INCLUDE THERMOSTAT RETAILERS, THE POWER AUTHORITY OF THE STATE OF NEW YORK, PROVIDERS OF QUALIFIED ENERGY EFFICIENCY SERVICES AND LOW COST RESIDENTIAL WEATHERIZATION, AND CONSIDER REVISIONS TO THE COLLECTION PROGRAMS THAT ARE DESIGNED TO ACHIEVE THE GOALS IN SUBSEQUENT CALENDAR YEARS.

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

(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 SIX OF THIS SECTION.

(B) IF THE DEPARTMENT DETERMINES THE REVISED COLLECTION PROGRAMS WILL NOT COLLECTIVELY ACHIEVE THE COLLECTION GOALS SET FORTH IN SUBDIVISION SIX 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) THERMOSTAT MANUFACTURERS SHALL BEGIN THE PROCESS TO IMPLEMENT COLLECTION PROGRAM REVISIONS APPROVED BY THE DEPARTMENT WITHIN NINETY DAYS AFTER APPROVAL.

5. NO LATER THAN APRIL FIRST, TWO THOUSAND FIFTEEN, 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) 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;

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

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

(F) EXAMPLES OF OUTREACH AND EDUCATIONAL MATERIALS USED UNDER PARAGRAPH (E) OF SUBDIVISION TWO OF THIS SECTION;

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

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

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

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

6. 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 FIFTEEN, THE COLLECTION OF AT LEAST TEN THOUSAND MERCURY THERMOSTATS TAKEN OUT OF SERVICE IN THE STATE DURING THE CALENDAR YEAR.

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

(C) FOR CALENDAR YEARS TWO THOUSAND SEVENTEEN THROUGH TWO THOUSAND TWENTY-TWO, THE COLLECTION GOALS SHALL BE ESTABLISHED BY THE DEPARTMENT. THE DEPARTMENT SHALL ESTABLISH COLLECTION GOALS NO LATER THAN JUNE FIRST, TWO THOUSAND SIXTEEN. THE COLLECTION GOALS ESTABLISHED BY THE DEPARTMENT SHALL ACHIEVE THE MAXIMUM FEASIBLE NUMBER 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, MUNICIPAL RECYCLERS, THERMOSTAT WHOLESALERS, CONTRACTORS, AND THERMOSTAT RETAILERS.

7. 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.

8. ON AND AFTER JULY FIRST, TWO THOUSAND FOURTEEN, 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 (E) OF SUBDIVISION TWO OF THIS SECTION.

9. (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.

10. 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.

11. NO LATER THAN JUNE FIRST, TWO THOUSAND FIFTEEN, 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 SIX 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.

12. NO LATER THAN NOVEMBER FIRST, TWO THOUSAND TWENTY-TWO, 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, MUNICIPAL RECYCLERS, AND OTHER INTEREST GROUPS.

13. 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.

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

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

(C) ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID OVER TO THE COMMISSIONER FOR DEPOSIT TO THE ENVIRONMENTAL CONSERVATION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

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

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

S 6. Section 1854 of the public authorities law is amended by adding a new subdivision 20 to read as follows:

20. TO ENSURE THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS, GENERATED AS A RESULT OF ANY GRANT OR LOAN PROVIDED

BY THE AUTHORITY. ANY ORGANIZATION, OR SUBCONTRACTOR OF SUCH ORGANIZATION, USING FUNDING PROVIDED BY THE AUTHORITY, SHALL NOT DISPOSE OF A MERCURY-ADDED CONSUMER PRODUCT IN SOLID WASTE OR OTHERWISE DISPOSE OF SUCH A PRODUCT EXCEPT BY SEPARATED DELIVERY THEREOF TO A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY PERMITTED OR AUTHORIZED PURSUANT TO TITLE SEVEN OR NINE OF THE ENVIRONMENTAL CONSERVATION LAW. SUCH ORGANIZATION, OR SUBCONTRACTOR OF SUCH ORGANIZATION, USING FUNDING PROVIDED BY THE AUTHORITY, SHALL USE THE CONTAINERS PROVIDED BY THE COLLECTION PROGRAM PURSUANT TO SECTION 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW TO FACILITATE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS BY CONTRACTORS.

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

(D) THE AUTHORITY SHALL CONSULT WITH REPRESENTATIVES OF THERMOSTAT MANUFACTURERS WHO, 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 SECTION 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW, TO ENSURE THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS. ANY ORGANIZATION, OR SUBCONTRACTOR OF SUCH ORGANIZATION USING FUNDING PROVIDED UNDER THE PROGRAM, SHALL NOT DISPOSE OF A MERCURY-ADDED CONSUMER PRODUCT IN SOLID WASTE OR OTHERWISE DISPOSE OF SUCH A PRODUCT EXCEPT BY SEPARATED DELIVERY THEREOF TO A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY PERMITTED OR AUTHORIZED PURSUANT TO TITLE SEVEN OR NINE OF THE ENVIRONMENTAL CONSERVATION LAW. SUCH ORGANIZATION, OR SUBCONTRACTOR OF SUCH ORGANIZATION USING FUNDING PROVIDED UNDER THE PROGRAM, SHALL USE THE CONTAINERS PROVIDED BY THE COLLECTION PROGRAM PURSUANT TO SECTION 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW TO FACILITATE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS BY CONTRACTORS.

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

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

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

PROVIDED HOWEVER, THE DEPARTMENT SHALL ENSURE THAT ANY CONTRACTOR CONDUCTING LOW-COST RESIDENTIAL WEATHERIZATION OR OTHER ENERGY-RELATED HOME REPAIR FOR LOW-INCOME HOUSEHOLDS PROVIDED UNDER THE PROGRAM, SHALL NOT DISPOSE OF A MERCURY-ADDED CONSUMER PRODUCT IN SOLID WASTE OR OTHERWISE DISPOSE OF SUCH A PRODUCT EXCEPT BY SEPARATED DELIVERY THEREOF TO A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY PERMITTED OR AUTHORIZED PURSUANT TO TITLE SEVEN OR NINE OF THE ENVIRON-

MENTAL CONSERVATION LAW. SUCH ORGANIZATION, OR SUBCONTRACTOR OF SUCH ORGANIZATION USING FUNDING PROVIDED UNDER THE PROGRAM, SHALL USE THE CONTAINERS PROVIDED BY THE COLLECTION PROGRAM PURSUANT TO SECTION 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW TO FACILITATE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS BY CONTRACTORS.

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

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

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

7. THE COMMISSIONER SHALL CONSULT WITH REPRESENTATIVES OF THERMOSTAT MANUFACTURERS WHO, 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 SECTION 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW, TO ENSURE THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS, GENERATED AS DIRECT OR INDIRECT RESULT OF THE COMMISSIONERS ACTION. ANY ORGANIZATION, OR SUBCONTRACTOR OF SUCH ORGANIZATION USING FUNDING OR FINANCING PROVIDED BY A POWER GRANTED TO THE COMMISSIONER, SHALL NOT DISPOSE OF A MERCURY-ADDED CONSUMER PRODUCT IN SOLID WASTE OR OTHERWISE DISPOSE OF SUCH A PRODUCT EXCEPT BY SEPARATED DELIVERY THEREOF TO A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY PERMITTED OR

AUTHORIZED PURSUANT TO TITLE SEVEN OR NINE OF THE ENVIRONMENTAL CONSERVATION LAW.

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

S 1020-II. MERCURY THERMOSTAT COLLECTION. THE AUTHORITY SHALL CONSULT WITH REPRESENTATIVES OF THERMOSTAT MANUFACTURERS WHO, 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 SECTION 27-2119 OF THE ENVIRONMENTAL CONSERVATION LAW, TO ENSURE THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS.

S 13. This act shall take effect immediately and shall expire and be deemed repealed January 1, 2024.