

STATE OF NEW YORK

8936

IN SENATE

April 1, 2024

Introduced by Sen. HARCKHAM -- 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 and the state finance law, in relation to the proper collection and disposal of mercury thermostats; and to amend chapter 550 of the laws of 2013, amending the environmental conservation law relating to establishing the mercury thermostat collection act, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title 29 of article 27 of the environmental conservation law, as added by chapter 550 of the laws of 2013, is amended to read as follows:

TITLE 29

MERCURY THERMOSTAT COLLECTION ACT

§ 27-2901. Definitions.

1. "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.

2. "Producer responsibility organization" means a not-for-profit organization established by a thermostat manufacturer or group of thermostat manufacturers to implement an out-of-service mercury thermostat collection program.

3. "Collection site" means a location accepting mercury thermostats as part of a mercury thermostat collection program.

4. "Contractor" means a person engaged in the business of installation, service or removal of heating, ventilation, and air-conditioning components in this state.

~~2.~~ 5. "Mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilation, or air-conditioning equipment and includes thermostats used to sense and control room temperature in residential, commercial, industrial and other buildings but does not include

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

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1 a thermostat used to sense and control temperature as part of a manufac-
2 turing process.

3 ~~[3-]~~ 6. "Out-of-service mercury thermostat" means a mercury thermostat
4 that is removed, replaced or otherwise taken out of service in this
5 state.

6 ~~[4-]~~ ~~"Qualified contractor" means a person engaged in the business of~~
7 ~~installation, service or removal of heating, ventilation, and air condi-~~
8 ~~tioning components who employs seven or more service technicians or~~
9 ~~installers.~~

10 ~~5-]~~ 7. "Qualified local government ~~[authorities]~~ authority" means any
11 municipal corporation or planning unit as defined in section 27-0107 of
12 this article, or county departments of health.

13 8. "Thermostat" means a product or device that senses and controls
14 room temperature through communication with heating, ventilating, or
15 air-conditioning equipment. "Thermostat" includes a thermostat used to
16 sense and control room temperature in residential, commercial, indus-
17 trial, and other buildings, but does not include a thermostat used to
18 sense and control temperature as part of a manufacturing process.

19 ~~[6-]~~ 9. "Thermostat manufacturer" means a person who owns or owned a
20 name brand of one or more mercury thermostats sold in the state.

21 ~~[7-]~~ 10. "Thermostat retailer" means a person who sells thermostats of
22 any kind primarily to homeowners or other nonprofessionals through any
23 sale or distribution mechanism including sales using the internet or
24 catalogs.

25 ~~[8-]~~ 11. "Thermostat wholesaler" means a person who is engaged in the
26 distribution and wholesale selling of heating, ventilation or air-condi-
27 tioning components, including thermostats, to contractors, and whose
28 total wholesale sales account for eighty percent or more of its total
29 sales. A thermostat manufacturer is not, by virtue of manufacturing, a
30 thermostat wholesaler.

31 § 27-2903. ~~[Mercury-containing]~~ Mercury thermostat collection program
32 requirements.

33 1. ~~[Each]~~ No later than one hundred eighty days after the effective
34 date of the chapter of the laws of two thousand twenty-four which
35 amended this section, each thermostat manufacturer ~~[shall]~~, either indi-
36 vidually ~~[or collectively, with other thermostat manufacturers, estab-~~
37 ~~lish and maintain a]~~ or through a producer responsibility organization,
38 shall submit to the department for the department's approval a plan for
39 the establishment, implementation, maintenance, and promotion of a
40 collection program for the collection, transportation, recycling,
41 disposal and proper management of out-of-service mercury thermostats in
42 accordance with the provisions of subdivision seven this section.

43 2. ~~[Each]~~ A thermostat manufacturer or producer responsibility organ-
44 ization operating an existing out-of-service mercury thermostat
45 collection program in the state on the effective date of the chapter of
46 the laws of two thousand twenty-four which amended this section shall
47 continue to implement such program until a proposed collection program
48 outlined in the plan required by subdivision one of this section is
49 approved and implemented.

50 3. The department shall approve or reject a plan submitted under this
51 section within sixty days of submission and, if rejected, inform the
52 manufacturer or group of manufacturers or producer responsibility organ-
53 ization in writing as to any deficiencies of the submitted plan. A
54 rejected plan shall be amended and resubmitted for approval within sixty
55 days of notification of the rejection of the submitted plan. The depart-

1 ment shall approve or reject an amended plan within thirty days of
2 resubmission.

3 4. No later than three months after the plan is approved under subdivi-
4 vision three of this section, each thermostat manufacturer [shall],
5 either individually [~~or collectively with other thermostat manufacturers~~
6 ~~through a collection program, do the following:~~] or through partic-
7 ipation in a producer responsibility organization, shall implement an
8 out-of-service mercury thermostat collection program.

9 5. The out-of-service mercury thermostat collection program shall not
10 include any fees or other charges to consumers, contractors or persons
11 using the collection program. Each thermostat wholesaler, contractor,
12 qualified local government authority, or thermostat retailer that is
13 provided with one or more collection containers may only be charged a
14 fee not to exceed twenty-six dollars to replace any collection container
15 that is misplaced, stolen or otherwise lost.

16 6. The out-of-service mercury thermostat collection program shall
17 provide for an incentive to a contractor or New York state real property
18 owner of no less than twenty dollars per out-of-service mercury thermo-
19 stat collected in this state, and educate contractors and New York state
20 real property owners on the availability of the incentive. A collection
21 incentive shall be available only to a contractor or to a New York state
22 real property owner that attests, under penalty of perjury, that the
23 returned out-of-service mercury thermostat was removed from a building
24 or facility in the state of New York. Such incentive shall be provided
25 by a thermostat manufacturer or producer responsibility organization.
26 Such incentive shall be the financial responsibility of the manufacturer
27 or producer responsibility organization, as appropriate.

28 7. Each thermostat manufacturer or producer responsibility organiza-
29 tion shall submit a plan for the out-of-service mercury thermostat
30 collection program required under subdivision one of this section, that
31 shall, at a minimum:

32 (a) [~~On and after July first, two thousand fourteen, compile a~~]
33 Include a list of thermostat wholesalers in the state and [offer each
34 thermostat wholesaler containers] provide a detailed description of how
35 the manufacturer or producer responsibility organization will make
36 collection containers for the collection of out-of-service mercury ther-
37 mostats available to each thermostat wholesaler location.

38 (b) [~~On and after July first, two thousand fourteen,~~] Include a
39 detailed description of how the manufacturer or producer responsibility
40 organization will make collection containers available to all [quali-
41 fied] contractors, [thermostat wholesalers,] thermostat retailers, and
42 qualified local government authorities that request a container. Each
43 thermostat manufacturer or producer responsibility organization shall
44 with each container include information regarding the proper management
45 of out-of-service mercury thermostats.

46 (c) [~~Establish a~~] Include a detailed description of the proposed
47 system to collect, transport, recycle, dispose and properly manage out-
48 of-service mercury thermostats from all collection sites.

49 (d) [~~Not include any fees or other charges to consumers or persons~~
50 participating in the program. Each thermostat wholesaler, qualified
51 contractor, qualified local government authority, or thermostat retailer
52 that is provided with one or more collection containers may be charged a
53 fee not to exceed twenty six dollars to replace any collection container
54 that is misplaced, stolen or otherwise lost.] Provide details on the
55 process to submit and receive the out-of-service mercury thermostat
56 collection incentive as required by subdivision six of this section.

(e) ~~[Beginning July first, two thousand fourteen, conduct]~~ Provide details on how the collection program will comply with the outreach and education requirements of subdivision eight of this section.

(f) Provide details on how the collection program will comply with the convenience requirements of subdivision nine of this section.

(g) Provide fiscal accounting details on how the incentive will be provided as required by subdivision six of this section.

(h) Provide any other information required by the department.

8. Each thermostat manufacturer or producer responsibility organization shall implement an out-of-service mercury thermostat collection program that provides for continuous education and outreach [efforts,] including, but not limited to the following:

~~[(i) establish and maintain a public 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;~~

~~[(ii) contact thermostat wholesalers at least once a year to encourage their support and participation in educating customers on the importance of statutory requirements for the collection and proper management of out-of-service mercury thermostats;~~

~~[(iii) create and maintain a web-based program that allows contractors and consumers to identify collection sites for out-of-service mercury thermostats in the state and provide a list of collection sites to the department; and~~

~~[(iv) 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 July first, two thousand fourteen, develop and update as necessary educational and other outreach materials for distribution to contractors, contractor associations and consumers. These materials shall be made available for use by participating thermostat wholesalers, thermostat retailers, contractors, and qualified government authorities. The materials shall include, but not be limited to, the following:~~

~~[(i) 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~~

~~[(ii) 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 these thermostats.~~

~~(g) Provide an opportunity for the department to review and offer feedback and suggestions on the collection program.~~

~~3. The collection programs established by thermostat manufacturers under this section shall be designed to achieve collectively the following statewide goals:~~

~~(a) For calendar year two thousand fifteen, the collection of no less than fifteen thousand five hundred out-of-service mercury thermostats;~~

~~(b) For calendar years two thousand sixteen through two thousand twenty-three, the collection goals shall be established by the department. The department shall establish collection goals no later than October first, two thousand fifteen. 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, including those states with the highest collection goals, (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 relevant 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, qualified contractors, and thermostat retailers.~~

~~(c) Thermostat manufacturers shall implement any collection program revisions approved by the department within ninety days.~~

~~4. If the collection programs do not collectively achieve the collection goals provided for in subdivision three of this section for calendar year two thousand fifteen or any year thereafter the department, after conducting stakeholder consultations, 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 coupon offered by the manufacturer to contractors and consumers for each out-of-service mercury thermostat returned to a collection site.~~

5.] (a) The development, implementation, and updating as necessary, of a statewide educational and outreach campaign to inform appropriate entities about the importance of safe recycling and disposal of out-of-service mercury thermostats, where to find out-of-service mercury thermostat collection sites, and how to submit for and receive the available out-of-service mercury thermostat collection incentive.

(b) The development, and updating as necessary, of educational and other outreach materials for distribution to contractors, contractor associations and consumers. These materials shall be made available by each thermostat manufacturer or producer responsibility organization 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:

(i) signage, such as posters and cling signage, that can be prominently displayed to promote the collection of out-of-service mercury thermostats and the available out-of-service mercury thermostat collection incentive to contractors and New York state real property owners;

(ii) 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, opportunities for the collection of out-of-service mercury thermostats, and information on the available out-of-service mercury thermostat collection incentive;

(iii) advertising or other promotional materials, or both, that include references to out-of-service mercury thermostat collection

1 opportunities and the available out-of-service mercury thermostat
2 collection incentive; and

3 (iv) a public service announcement promoting the proper management of
4 out-of-service mercury thermostats, and a plan for a public service
5 campaign using the public service announcement that includes the media
6 and markets into which the public service announcement is to be distrib-
7 uted and aired on behalf of the program. Copies of the public service
8 announcement shall be provided to the department for its use and
9 promotion.

10 (c) Establishing and maintaining a public website for the dissem-
11 ination of educational materials to promote the collection of out-of-
12 service mercury thermostats. The link to this website shall be provided
13 to the department. Such website shall include:

14 (i) templates of the educational materials on the internet website in
15 a form and format that can be easily downloaded and printed;

16 (ii) location information, by county, of all established out-of-ser-
17 vice mercury thermostat collection sites in the state. Location informa-
18 tion shall be posted and updated in a manner that allows members of the
19 public to easily identify the most convenient collection site for out-
20 of-service mercury thermostats; and

21 (iii) information about obtaining the available out-of-service mercury
22 thermostat collection incentive.

23 (d) Creating and maintaining a web-based program that allows contrac-
24 tors and consumers to identify collection sites for out-of-service
25 mercury thermostats in the state and provide a list of collection sites
26 to the department.

27 (e) An annual visit to each thermostat wholesaler, thermostat retail-
28 er, and qualified local government authority provided with at least one
29 collection container to encourage their support and participation in
30 educating customers on the importance of statutory requirements for the
31 collection and proper management of out-of-service mercury thermostats.

32 (f) Developing strategies to work with all of the following to encour-
33 age their participation in the collection and proper management of out-
34 of-service mercury thermostats:

35 (i) State utilities participating in programs involving the replace-
36 ment of thermostats. These strategies may include the inclusion of an
37 educational insert in their customers' utility bills.

38 (ii) Wholesalers of thermostats in the state.

39 (iii) Retailers and other outlets that sell thermostats directly to
40 consumers in the state.

41 (iv) Household hazardous waste collection facilities to partner with
42 local take-back centers, including retailers and wholesalers, to facili-
43 tate convenient out-of-service mercury thermostat collection options for
44 community members.

45 9. A thermostat manufacturer or its producer responsibility organiza-
46 tion shall establish a collection program under this section with suffi-
47 ciently convenient collection sites and methods in all parts of the
48 state, including within rural communities, to encourage the collection
49 of out-of-service mercury thermostats. For purposes of this subdivision,
50 "sufficiently convenient" means both of the following requirements are
51 met:

52 (a) For at least ninety percent of state residents, a collection site
53 is located within fifteen miles of their residence; and

54 (b) At least one collection site in each county of the state and in
55 each municipality with a population of ten thousand or greater.

1 10. No later than April first, two thousand [~~fifteen~~] twenty-six, and
 2 no later than April first of each year thereafter, each thermostat
 3 manufacturer shall, individually or collectively with other thermostat
 4 manufacturers, submit an annual report on its collection program to the
 5 department covering the one-year period ending December thirty-first of
 6 the previous year. Each report shall be posted on the thermostat
 7 manufacturer's [~~or program operator's~~] or producer responsibility organ-
 8 ization's respective internet website. The annual report shall include
 9 the following:

10 (a) the number of out-of-service mercury thermostats collected and
 11 managed under this section during the previous calendar year;

12 (b) the estimated total amount of mercury contained in the out-of-ser-
 13 vice mercury thermostats collected under this section during the previ-
 14 ous calendar year;

15 (c) the number of incentives submitted by contractors and New York
 16 state real property owners and the total dollar amount of incentives
 17 paid to contractors and New York state real property owners;

18 (d) a list of all thermostat wholesalers, contractors, qualified local
 19 government authorities, and thermostat retailers participating in the
 20 collection program as mercury thermostat collection sites and the number
 21 of out-of-service mercury thermostats returned by each;

22 [~~(d)~~] (e) an accounting of the collection program's administrative
 23 costs;

24 [~~(e)~~] (f) a description of outreach strategies employed under para-
 25 graph [~~(e)~~] (f) of subdivision [~~two~~] eight of this section;

26 [~~(f)~~] (g) examples of outreach and educational materials used under
 27 paragraph [~~(e)~~] (b) of subdivision [~~two~~] eight of this section;

28 [~~(g)~~] (h) the internet website address [~~of addresses~~] where the annual
 29 report may be viewed online;

30 [~~(h)~~] (i) a description of how the out-of-service mercury thermostats
 31 were managed;

32 [~~(i)~~] (j) any modifications that the thermostat manufacturer or
 33 producer responsibility organization is planning to make in its
 34 collection program; [~~and~~

35 [~~(j)~~] (k) the identification of a collection program contact and the
 36 business phone number, mailing address, and e-mail address for the
 37 contact[~~-~~

38 ~~6-]; and~~

39 (l) any additional information the department requests.

40 11. Beginning April first, two thousand twenty-six, and no later than
 41 April first of each year thereafter, each thermostat manufacturer,
 42 either individually or collectively with other thermostat manufacturers,
 43 or through a producer responsibility organization, shall reimburse the
 44 department for the department's actual costs for the administration,
 45 implementation and enforcement associated with this title. All monies
 46 received by the department pursuant to this paragraph shall be deposited
 47 to the credit of the mercury thermostat stewardship fund established
 48 pursuant to section ninety-two-kk of the state finance law.

49 12. All [~~contractors, thermostat wholesalers, thermostat manufactur-~~
 50 ~~ers, and thermostat retailers~~] persons participating in the collection
 51 program shall handle and manage the out-of-service mercury thermostats
 52 in a manner that is consistent with the requirements for the handling,
 53 management, transportation and disposal of hazardous waste.

54 [~~7. On and after July first, two thousand fourteen, no thermostat~~
 55 ~~wholesaler shall sell, offer to sell, distribute, or offer to distribute~~
 56 ~~thermostats unless the wholesaler participates as a collection site for~~

~~out-of-service mercury thermostats or requests and receives a waiver from the department following a demonstration that such participation would pose an undue burden.]~~

§ 27-2905. Thermostat wholesaler and retailer requirements.

1. Upon implementation of the collection program plan submitted pursuant to section 27-2903 of this title, no thermostat wholesaler shall sell, offer to sell, distribute, or offer to distribute thermostats in this state unless the wholesaler participates as a collection site for out-of-service mercury thermostats or requests and receives a waiver from the department following a demonstration that such participation would pose an undue burden.

2. No thermostat wholesaler or thermostat retailer shall sell, offer for sale or distribute in this state any thermostat for final sale unless the thermostat manufacturer [of such thermostat] is listed [on the department's website,] as participating under an approved collection program plan in accordance with the provisions of this title.

3. No thermostat wholesaler or thermostat retailer shall sell, offer for sale or distribute in this state any thermostat for final sale unless the thermostat wholesaler or thermostat retailer makes use of the educational and outreach materials it has been provided by the collection program as outlined in paragraph (b) of subdivision eight of section 27-2903 of this title.

§ 27-2907. Contractor requirements.

1. Any person or contractor who replaces a mercury thermostat in a building in this state shall ensure the proper management, transportation and delivery of such mercury thermostat to a collection site in accordance with the provisions of this title.

2. Any person or contractor who demolishes a building in this state shall ensure that all mercury thermostats are removed from the building prior to demolition and shall ensure the proper management, transportation and delivery of such mercury thermostats to a collection site in accordance with the provisions of this title.

3. Any contractor, organization or subcontractor of such organization, who contracts with or receives funding or financing provided in whole or in part by or through any department, agency, instrumentality, or political subdivision of the state for the installation, service, or removal of heating, ventilation, or air-conditioning components resulting in the removal or handling of out-of-service mercury thermostats, shall ensure the proper collection, management, transportation, and delivery of out-of-service mercury thermostats to a collection site in accordance with the provisions of this title.

§ 27-2909. Department responsibilities.

~~1. [No later than June first, two thousand fifteen,]~~ Upon implementation of a collection program plan submitted pursuant to subdivision one of section 27-2903 of this title, 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 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 this title; and~~

~~(c) a]~~ list of all [thermostat wholesalers, contractors, qualified local government authorities, and thermostat retailers participating in the program as] collection sites; and

(c) a link to the internet website for a collection program established pursuant to the approved plan as required by section 27-2903 of this title.

2. No later than November first, two thousand ~~[eighteen]~~ twenty-eight, and every five years thereafter, 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]~~. The report due November first, two thousand forty-three, shall include 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.

§ ~~[27-2909-]~~ 27-2911. Disposal prohibition.

1. No transporter shall knowingly commingle ~~[mercury-added]~~ mercury thermostats with solid waste or recyclable materials.

2. No transporter shall knowingly deliver ~~[mercury-added]~~ mercury thermostats or knowingly cause such materials to be delivered to:

(a) an incinerator;

(b) a landfill;

(c) a transfer station; or

(d) anyone who the transporter knows or should know will either commingle such materials with other solid waste or deliver such materials to an incinerator or a landfill for disposal.

3. No operator of an incinerator or a landfill shall knowingly accept ~~[mercury-added]~~ mercury thermostats for disposal.

4. No operator of a transfer station shall knowingly commingle ~~[mercury-added]~~ mercury thermostats with other solid waste or cause such materials to be transferred to an incinerator or landfill for disposal.

5. Each landfill and transfer station shall post, in a conspicuous location at the facility, a sign stating that ~~[mercury-added]~~ mercury thermostats are not accepted at the facility.

§ 27-2913. Enforcement and penalties.

1. Notwithstanding the provisions of section 71-2724 of this chapter, and except as otherwise provided in this section, any person who violates any of the provisions of, or who fails to perform any duty imposed by this title or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be liable for a civil penalty not to exceed five hundred dollars for each such violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues.

2. Notwithstanding the provisions of section 71-2724 of this chapter, any person, contractor, organization or subcontractor of such organization, who violates any provision of, or fails to perform any duty imposed by subdivisions two and three of section 27-2907 of this title, or any rule or regulation promulgated pursuant thereto, shall be liable for a civil penalty not to exceed three thousand dollars for each violation and an additional penalty of not more than one thousand dollars for each day during which such violation continues.

3. Notwithstanding the provisions of section 71-2724 of this chapter, any contractor, thermostat wholesaler, or thermostat retailer, who

1 violates any provision of, or fails to perform any duty imposed by this
2 title, other than subdivisions two and three of section 27-2907 of this
3 title, or any rule or regulation promulgated pursuant thereto, or any
4 term or condition of any certificate or permit issued pursuant thereto,
5 or any final determination or order of the commissioner made pursuant to
6 this title, shall be liable for a civil penalty not to exceed one thou-
7 sand five hundred dollars for each violation and an additional penalty
8 of not more than one thousand dollars for each day during which such
9 violation continues.

10 4. (a) Any thermostat manufacturer or producer responsibility organ-
11 ization, as defined in this title, who fails to submit any plan, report,
12 or fee to the department as required by this title, shall be liable for
13 a civil penalty not to exceed one thousand dollars for each day such
14 plan, report, or fee is not submitted.

15 (b) Notwithstanding the provisions of section 71-2724 of this chapter,
16 any thermostat manufacturer or producer responsibility organization, as
17 defined in this title, who violates any other provision of, or fails to
18 perform any duty imposed by this title or any rule or regulation promul-
19 gated pursuant thereto, or any term or condition of any certificate or
20 permit issued pursuant thereto, or any final determination or order of
21 the commissioner made pursuant to this title shall be liable for a civil
22 penalty not to exceed two thousand five hundred dollars for the first
23 violation, five thousand dollars for the second violation, and ten thou-
24 sand dollars for the third and subsequent violations of this title with-
25 in a twelve-month period.

26 5. Notwithstanding the provisions of section 71-2724 of this chapter,
27 and in addition to any other penalties provided in this section, any
28 person who violates any of the provisions of, or who fails to perform
29 any duty imposed by, titles three, seven, or nine of this article
30 related to the handling, management, storage, transportation or disposal
31 of solid and hazardous waste, or any other provision of this chapter, or
32 any rule or regulation promulgated pursuant thereto, or any term or
33 condition of any certificate or permit issued pursuant thereto, or any
34 final determination or order of the commissioner made pursuant to this
35 title shall be subject to the applicable penalties in article seventy-
36 one of this chapter, including sections 71-2703 and 71-2705 of this
37 chapter, as applicable.

38 6. Penalties under this section shall be assessed by the commissioner
39 after a hearing or opportunity to be heard pursuant to the provisions of
40 section 71-1709 of this chapter, or by the court in any action or
41 proceeding pursuant to section 71-2727 of this chapter, and, in addition
42 thereto, such person may by similar process be enjoined from continuing
43 such violation and any permit or certificate issued to such person may
44 be revoked or suspended or a pending renewal application denied.

45 7. All civil penalties and fines collected for any violation of this
46 title shall be deposited to the credit of the environmental protection
47 fund established pursuant to section ninety-two-s of the state finance
48 law.

49 § 2. The state finance law is amended by adding a new section 92-kk to
50 read as follows:

51 § 92-kk. Mercury thermostat stewardship fund. 1. There is hereby
52 established in the joint custody of the state comptroller and the
53 commissioner of the department of taxation and finance, a special fund
54 to be known as the "mercury thermostat stewardship fund".

55 2. The mercury thermostat stewardship fund shall consist of all reven-
56 ue collected from fees pursuant to title twenty-nine of article twenty-

1 seven of the environmental conservation law and any cost recoveries or
2 other revenues collected pursuant to title twenty-nine of article twen-
3 ty-seven of the environmental conservation law, and any other monies
4 deposited into the fund pursuant to law.

5 3. Moneys of the fund, following appropriation by the legislature,
6 shall be used for execution of the program pursuant to title twenty-nine
7 of article twenty-seven of the environmental conservation law, and
8 expended for the purposes as set forth in title twenty-nine of article
9 twenty-seven of the environmental conservation law.

10 § 3. Any department, authority, instrumentality, or municipal corpo-
11 ration of the state administering a program that involves the removal or
12 replacement of mercury thermostats as a result of any statutory require-
13 ment, shall inform contractors of their statutory obligations to deliver
14 the mercury thermostats to a collection site and prohibiting the
15 disposal of such thermostats in a solid-waste facility.

16 § 4. Section 4 of chapter 550 of the laws of 2013, amending the envi-
17 ronmental conservation law relating to establishing the mercury thermo-
18 stat collection act, as amended by chapter 349 of the laws of 2023, is
19 amended to read as follows:

20 § 4. This act shall take effect immediately and shall expire and be
21 deemed repealed January 1, [~~2025~~] 2048.

22 § 5. This act shall take effect immediately; provided, however, the
23 amendments to title 29 of article 27 of the environmental conservation
24 law made by section one of this act shall not affect the expiration of
25 such title and shall be deemed repealed therewith.