**§ 27-2107. Prohibitions.**

1. On and after January first, two thousand five, no person shall sell, offer for sale or distribute free of charge in the state any mercury-added novelty consumer product. A manufacturer that produces or sells mercury-added novelty consumer products shall notify retailers that sell mercury-added novelty consumer products about such product ban and inform such retailers of how to properly dispose of the remaining inventory.

2. On and after January first, two thousand five, no person shall sell, offer for sale or distribute free of charge mercury fever thermometers or mercury body thermometers except by prescription written by a physician. A manufacturer of such thermometers shall provide the buyer or the recipient with notice of mercury content, instructions on proper disposal and instructions that clearly describe how to carefully handle the thermometer to avoid breakage and on proper cleanup should a breakage occur.

3. On or after January first, two thousand five, no person shall sell, offer for sale or distribute free of charge in the state elemental mercury, other than within a mercury-added consumer product, without requiring the final purchaser or recipient to sign a statement that the purchaser will use the mercury only for medical, pre-encapsulated dental amalgam, research, or manufacturing purposes.

4. On or after September fourth, two thousand four, no primary or secondary school in New York state may use or purchase elemental mercury. Mercury-added consumer products which are not otherwise prohibited by this title that are used by schools are not subject to this prohibition.

5. On or after January first, two thousand six, no person shall sell, offer for sale or distribute the following mercury-added consumer products:

(a) mercury barometers;

(b) mercury esophageal dilators, mercury bougie tubes or mercury

gastrointestinal tubes;

(c) mercury flow meters;

(d) mercury hygrometers or mercury psychrometers; and

(e) mercury pyrometers;

The provisions of this subdivision shall not apply to the sale or distribution of any mercury-added consumer product delineated in this subdivision if such product is used to replace a product that is a component in a larger product in use prior to January first, two thousand six, or the resale of any mercury-added consumer product delineated in this subdivision manufactured before December thirty-first, two thousand five.

6. On or after January first, two thousand seven, no person shall sell, offer for sale or distribute any mercury hydrometer or mercury manometer. The provisions of this subdivision shall not apply to the sale or distribution of any mercury-added consumer product delineated in this subdivision if such product is used to replace a product that is a component in a larger product in use prior to January first, two thousand seven, or the resale of any mercury-added consumer product delineated in this subdivision manufactured before December thirty-first, two thousand six.

7. On or after January first, two thousand eight, no person shall sell, offer for sale or distribute any mercury switch or mercury relay individually or as a product component. The provisions of this subdivision shall not apply to the sale or distribution of any mercury-added consumer product delineated in this subdivision if such product is used to replace a product that is a component in a larger product in use prior to January first, two thousand eight, or the resale of any mercury-added consumer product delineated in this subdivision manufactured before December thirty-first, two thousand seven.

8. On or after January first, two thousand twelve, no person shall sell, offer for sale or distribute any mercury sphygmomanometer, mercury wetted reed relay, mercury flame sensor, mercury thermometer, or mercury thermostat, except for mercury thermostats used by a blind or visually

impaired person. The provisions of this subdivision shall not apply to the sale or distribution of any mercury-added consumer product delineated in this subdivision if such product is used to replace a product that is a component in a larger product in use prior to January first, two thousand twelve or the resale of any mercury-added consumer product delineated in this subdivision manufactured prior to January first, two thousand twelve.

9. The provisions of subdivisions five, six, seven and eight of this section shall not apply to the sale or distribution of any mercury-added consumer product delineated in those subdivisions if the use of such product is a federal requirement. The department shall develop informational materials on the dangers of mercury-added consumer products, specifically thermometers and barometers, and disseminate such materials to antique dealers and resale establishments.

10. The department may grant a waiver from the provisions of subdivision eight of this section upon request by the manufacturer of a mercury-added consumer product.

(a) An application for a waiver shall be in the form prescribed by the department and document the basis for the requested waiver or renewal of a waiver and describe how the manufacturer will ensure that a system exists for the proper collection, transportation and processing of the mercury-added consumer products at the end of their useful life.

(b) The application must include at a minimum, information that demonstrates:

(i) there are no non-mercury alternatives that are comparable in price to, are as effective in performance as, or are as accurate and precise as the identified mercury-added consumer product;

(ii) the use of the mercury-added consumer product provides a net benefit to the environment, public health, or public safety when compared to a non-mercury alternative; or

(iii) there are other factors affecting the use of non-mercury alternatives.

(c) The manufacturer must notify the regional multi-state clearinghouse, as identified in section 27-2115 of this title, of its request for a waiver pursuant to this subdivision and provide the

clearinghouse with the information required in its waiver application.

(d) The department may grant or deny, in whole or in part, a request for a waiver. In determining whether to grant or deny a waiver or waiver renewal, the department may consult with the clearinghouse, other states, or regional governmental organizations to promote consistency in the implementation of this subdivision.

(e) Waivers shall be granted for a period not to exceed two years. Upon a request by the manufacturer, the department may renew a waiver for a period not to exceed two years if the department finds that the manufacturer continues to meet the requirements for a waiver, that the manufacturer has complied with all conditions of the original waiver, and the manufacturer demonstrates that reasonable efforts have been made to remove mercury from the product subject to the waiver.

11. On and after January first, two thousand twenty-one, no producer of mercury-added lamps shall sell, offer for sale, or distribute such lamps that fail to meet mercury content standards adopted by the department pursuant to rules and regulations. Such standards shall include what, if any, allowance should be granted for slight variations in the amount of mercury resulting from production variances. For the following general purpose lights, mercury content shall be no higher than:

(a) 2.5 milligrams for screw-based compact fluorescent lamps less than thirty watts;

(b) 3.5 milligrams for straight fluorescent T8 lamps with a normal lifetime (excluding 8-foot models) and 3.0 milligrams for straight fluorescent T5 lamps with a normal lifetime;

(c) 5.0 milligrams for straight fluorescent T8 and T5 lamps with a long lifetime;

(d) 15.0 milligrams for non-linear fluorescent T8, T5, and T12 lamps and 8-foot linear fluorescent lamps (excluding very high output models);

12. On or before December thirty-first, two thousand twenty-six, mercury content standards established in accordance with this section shall not apply to special purpose lights.