

1 (4) Consumption of mercury-contaminated fish poses a
2 significant public health threat and, because of this
3 threat, numerous states have issued fish advisories;

4 (5) Studies have documented that exposure to elevated
5 levels of mercury in the environment over time has
6 resulted in serious harm to humans and fish-consuming
7 wildlife;

8 (6) Several state programs have demonstrated that removal
9 of mercury-containing products from the waste stream
10 prior to combustion is an effective way to reduce
11 mercury emissions from solid waste management
12 facilities; and

13 (7) Manufacturers of certain mercury-added products, such
14 as thermostats, have established successful "take
15 back" programs for properly managing the products at
16 the end of their useful life.

17 (b) The purpose of this chapter is to protect the health
18 and welfare of Hawaii residents by reducing mercury emissions
19 through restrictions on the manufacture, sale, and distribution
20 of mercury-containing goods, and the establishment of effective
21 state and county waste reduction, recycling, and management
22 programs.



1 § -3 **Definitions.** As used in this chapter, unless the
2 context clearly requires otherwise:

3 "Department" means the department of health.

4 "Manufacturer" means any person, firm, corporation, or
5 governmental entity that produces a product containing mercury,
6 or an importer or domestic distributor of a product containing
7 mercury produced in a foreign country. In the case of a
8 multicomponent product containing mercury, the manufacturer is
9 the last manufacturer to produce or assemble the product. If
10 the multicomponent product is produced in a foreign country, the
11 manufacturer is the importer or domestic distributor.

12 "Mercury-added novelty" means a mercury-added product
13 intended mainly for personal or household enjoyment or
14 adornment. Mercury-added novelties include but are not limited
15 to items intended for use as practical jokes, figurines,
16 adornments, toys, games, cards, ornaments, yard statues and
17 figures, candles, jewelry, holiday decorations, and items of
18 apparel, including footwear.

19 "Mercury-added product" means a product that contains
20 mercury or a mercury compound intentionally added to the
21 product.



1 "Mercury fever thermometer" means a mercury-added product
2 that is used for measuring body temperature.

3 "Product containing mercury" means any product that
4 contains mercury or a mercury compound from any source or cause,
5 whether intended or unintended, including but not limited to a
6 mercury-added product and a product manufactured using mercury.

7 § -4 **Mercury reduction; notification.** (a) After
8 December 31, 2007, no mercury-added product shall be offered for
9 final sale, use, or distribution for promotional purposes in
10 this State without prior notification in writing by the
11 manufacturer of the product to the department in accordance with
12 the requirements of this section. The notification shall at a
13 minimum include:

- 14 (1) A brief description of the product to be offered for
15 sale, use, or distribution;
- 16 (2) The amount of, and purpose for, mercury in each unit
17 of the product, reported as an exact number or average
18 per product, with an upper and lower limit unless
19 waived by the department due to practical
20 considerations; and



1 (3) The name and address of the manufacturer, and the
2 name, address, and telephone number of a contact
3 person for the manufacturer.

4 (b) With the approval of the department, the manufacturer
5 may supply the information required in subsection (a)(1) for a
6 product category rather than an individual product. The
7 manufacturer shall update and revise the information in the
8 notification whenever there is significant change in the
9 information, or when requested by the department. The
10 department may define and adopt specific requirements through
11 rules adopted pursuant to chapter 91 for the content and
12 submission of the required notification through rules adopted
13 pursuant to chapter 91.

14 (c) Any information furnished pursuant to the requirements
15 of this section, as certified by the manufacturer, that relates
16 to production or sales figures, or to processes or production
17 unique to the manufacturer, or that would tend to affect
18 adversely the competitive position of the manufacturer, shall be
19 only for the confidential use of the department and the
20 interstate clearinghouse, as provided in section -8, in the
21 administration of this section, unless the manufacturer
22 expressly agrees to their publication or availability to the



1 public. Nothing herein shall be construed to prevent the use of
2 such information by the department and the interstate
3 clearinghouse in compiling or publishing analyses or summaries
4 relating to the amount and effect of mercury in products and the
5 environment; provided that the analyses or summaries do not
6 identify any manufacturer or reveal any information otherwise
7 confidential under this section.

8 (d) This section shall not apply to prescription drugs or
9 any substance that may be lawfully sold over the counter without
10 a prescription under the federal Food, Drug, and Cosmetic Act,
11 21 U.S.C. 301 et seq.

12 § -5 **Restrictions on mercury distribution; rules.** (a)

13 There shall be the following restrictions on the sale of certain
14 mercury-added products in the State:

15 (1) No later than July 1, 2008, no mercury-added novelty
16 shall be offered for final sale or use, or distributed
17 for promotional purposes in this State if the seller
18 knows or has reason to know that the product contains
19 mercury. Manufacturers that produce and sell mercury-
20 added novelties shall notify retailers about this
21 restriction and how to dispose of the remaining
22 inventory properly;



- 1 (2) After December 31, 2007, no person shall sell or
2 supply mercury fever thermometers to consumers or
3 patients, except by prescription. The manufacturers
4 of mercury fever thermometers shall supply clear
5 instructions on the careful handling of thermometers
6 to avoid breakage and proper cleanup, should a
7 breakage occur;
- 8 (3) No school in this State shall use or purchase for use
9 in a primary or secondary classroom, elemental
10 mercury, mercury compounds, or mercury-added
11 instructional equipment and materials, except
12 measuring devices and thermometers that are used in
13 school laboratories, and for which no adequate
14 substitute exists; and
- 15 (4) A manufacturer or wholesaler may not sell and a
16 retailer may not knowingly sell any of the items
17 listed in subsection (a)(1), unless the item is
18 labeled to clearly inform the purchaser or consumer
19 that mercury is present in the item and that the item
20 may not be disposed of or placed in a waste stream
21 destined for disposal until the mercury is removed and



1 reused, recycled, or otherwise managed to ensure that
2 it does not become part of solid waste or wastewater.

3 (b) The following items shall be labeled if they contain
4 mercury:

- 5 (1) A thermostat or thermometer;
- 6 (2) A switch, individually, or as part of another product;
- 7 (3) A medical or scientific instrument;
- 8 (4) An electric relay or other electrical device; and
- 9 (5) A lamp or bulb.

10 (c) The department shall adopt rules in accordance with
11 chapter 91 to establish standards for affixing labels, in
12 compliance with federal law, either to the product or to its
13 package.

14 (d) No person shall sell or provide elemental mercury in
15 this State without providing a material safety data sheet, as
16 defined in 42 U.S.C. Section 11049, and requiring the purchaser
17 or recipient to sign a statement that the purchaser or
18 recipient:

- 19 (1) Shall use the mercury only for medical, dental amalgam
20 dispose-caps, research, or manufacturing purposes;



1 (2) Understands that mercury is toxic, and will store and
2 use it appropriately so that no person is exposed to
3 the mercury; and

4 (3) Shall not place or allow anyone under the person's
5 control to place the mercury or cause the mercury to
6 be placed in solid waste for disposal or in a
7 wastewater disposal system.

8 (e) The department shall develop a plan for reducing
9 mercury pollution from dental procedures. In developing the
10 plan, the department shall consult with dentists. The
11 department shall adopt rules in accordance with chapter 91 to
12 implement mandatory source reduction of mercury from dental
13 procedures.

14 § -6 **Proper disposal of mercury.** (a) There shall be
15 the following restrictions on the disposal of products
16 containing mercury:

17 (1) After January 1, 2008, no person, retailer, or
18 manufacturer shall knowingly dispose of a labeled
19 mercury-added product in a landfill, incineration
20 facility, or other solid waste disposal facility;

21 (2) Except as otherwise provided in this chapter, each
22 person, retailer, or manufacturer who disposes of



1 solid waste within the State shall separate labeled
2 mercury-added products from that solid waste. A
3 contractor who replaces or removes labeled mercury-
4 added products shall ensure the proper separation and
5 disposal of any discarded mercury-added product; and

6 (3) A person, retailer, or manufacturer shall dispose of
7 separated mercury-added products only as part of a
8 collection program established under subsection (b) or
9 (c).

10 (b) By October 1, 2007, every solid waste disposal
11 facility shall develop a program for the collection of mercury-
12 added products. The program shall ensure that mercury is
13 removed from a product and reused, recycled, or otherwise
14 managed. The program shall include an informational effort to
15 advise the public about labeled mercury-added products. A solid
16 waste disposal facility shall implement a collection program
17 developed pursuant to this section by January 1, 2008.

18 (c) A manufacturer of a mercury-added product listed in
19 section 5(b) shall establish and maintain a manufacturer-
20 based reverse distribution system for the proper collection,
21 transportation, and management of the product from purchasers in
22 this State and clearly inform each purchaser of the product of



1 the available systems for proper collection and disposal of the
2 product. A manufacturer of a mercury-added product may not
3 charge a fee for collecting and managing its products.

4 **§ -7 Public education and outreach.** (a) The department
5 shall implement a public education, outreach, and assistance
6 program for households, hazardous waste generators, county solid
7 waste management agencies, dismantlers, institutions, and
8 schools on the hazards of mercury, the requirements and
9 obligations of individuals, manufacturers, and agencies under
10 this chapter, and voluntary efforts that individuals,
11 institutions, and businesses can undertake to help further
12 reduce mercury in the environment. The department shall
13 cooperate with manufacturers of mercury-added products and other
14 affected businesses in the development and implementation of
15 public education and technical assistance programs.

16 (b) The department shall assist counties and relevant
17 associations to develop collection programs and to disseminate
18 information to the public about labeled mercury-added products,
19 the requirements of the law regarding the source separation of
20 waste mercury-added products, and the collection programs that
21 are available to the public, including any manufacturer-based
22 reverse distribution system. A component of this information



1 program shall be directed specifically at large public and
2 private institutions that use and discard substantial numbers of
3 waste mercury-added products and at any other large users of
4 those products.

5 § -8 **Interstate cooperation.** (a) The department shall
6 cooperate with other states and regional organizations in the
7 United States on developing outreach, assistance, and education
8 programs, where appropriate.

9 (b) The department is hereby authorized to participate in
10 the establishment and implementation of a regional, multi-state
11 clearinghouse to assist in carrying out the requirements of this
12 chapter and to help coordinate reviews of the manufacturer
13 notifications regarding mercury-containing products,
14 applications for phase-out exemptions, reviews of the collection
15 plans, the disclosures of mercury content, applications for
16 alternative labeling, and education and outreach. The
17 clearinghouse may also maintain a list of all products
18 containing mercury, including mercury-added products, a file on
19 all exemptions granted by the states, and a file of all the
20 manufacturer reports on the effectiveness of their collection
21 systems.



1 § -9 **State review.** The department, in consultation with
2 other states, shall report annually by January 15 to the
3 legislature on:

4 (1) The extent of mercury contamination in the State's
5 environment and the extent of any health risk from
6 mercury contamination in the State;

7 (2) A survey of sources and quantities of mercury
8 discharged to or deposited into the State's
9 environment. This survey shall include both in-state
10 and out-of-state sources and estimates of relative
11 contribution;

12 (3) Methods for minimizing the risk of further
13 contamination and risk of mercury-related health
14 problems and the potential costs of reducing these
15 risks;

16 (4) The effectiveness of established programs for in-state
17 collection, transportation, and recycling of mercury
18 from waste mercury-added products and recommendations
19 for making the programs more effective; and

20 (5) Further coordination needed with other states to
21 effectively address mercury issues.



1 § -10 **Enforcement.** A person, manufacturer, or retailer
 2 who violates this chapter is guilty of a misdemeanor and, on
 3 conviction, is subject to a fine not exceeding \$100 for each
 4 product in violation of this chapter."

5 SECTION 2. This Act shall take effect on July 1, 2007.

6

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Report Title:

Mercury Poisoning Reduction

Description:

Limits the distribution of certain products containing mercury.
Requires proper disposal of mercury and products containing
mercury. Promotes public education about mercury poisoning.

