

HOUSE BILL NO. 261
INTRODUCED BY M. JOPEK

A BILL FOR AN ACT ENTITLED: "AN ACT ENACTING LAWS RELATING TO MERCURY; REQUIRING A BAN ON DISPOSAL OF MERCURY-ADDED PRODUCTS; REQUIRING SOURCE SEPARATION; ENACTING REQUIREMENTS APPLICABLE TO DENTAL OFFICES; REQUIRING A MERCURY-ADDED PRODUCT EDUCATION PROGRAM; REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO OFFER TECHNICAL ASSISTANCE; AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PARTICIPATE IN A REGIONAL, MULTISTATE CLEARING HOUSE CONCERNING MERCURY-ADDED PRODUCTS; AND REQUIRING THE ADOPTION OF RULES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Montana Mercury Contamination Prevention Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 9], the following definitions apply:

- (1) "Amalgam separator system" means the device described in [section 5].
- (2) "Board" means the board of environmental review provided for in 2-15-3502.
- (3) "Dental amalgam" means a mixture of silver and mercury used to restore dental integrity.
- (4) "Dental office" means a dental clinic or dental office practice but does not include the practice of oral and maxillofacial surgery.
- (5) "Department" means the department of environmental quality provided for in 2-15-3501.
- (6) "Mercury-added product" means any of the following items if the item contains mercury added during manufacture:
 - (a) a thermostat or thermometer;
 - (b) a switch or other device, individually or as part of another product, used to measure, control, or regulate gas, other fluids, or electricity;
 - (c) a medical or scientific instrument;
 - (d) an electric relay or other electrical device; or

(e) a lamp.

(7) (a) "Mercury-added thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air-conditioning equipment.

(b) The term includes thermostats used to sense and control room temperature in residential, commercial, industrial, and other buildings but does not include a thermostat used to sense and control temperature as part of a manufacturing process.

(8) (a) "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve.

(b) The term includes mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors.

(c) The term does not include a mercury-added thermostat.

NEW SECTION. Section 3. Disposal ban. After [the effective date of this act], a person may not knowingly place a mercury-added product in solid waste for disposal in a solid waste disposal facility regulated by Title 75, chapter 10, part 1, or in any water or wastewater system.

NEW SECTION. Section 4. Source separation. (1) When a mercury-added product is removed from service, the mercury in the item must be reused, recycled, or managed to ensure compliance with [section 3].

(2) A person who is in the business of replacing or repairing a mercury-added product in households shall ensure or deliver the item to a facility that will ensure that the mercury contained in an item that is replaced or repaired is reused, recycled, or otherwise managed in compliance with [section 3].

(3) A manufacturer of thermostats that contain mercury or a manufacturer of thermostats that may replace thermostats that contain mercury shall, in addition to meeting the requirements under [section 3], provide sufficient information to purchasers and consumers of the thermostats for the purchasers and consumers to ensure that mercury in thermostats being removed from service is reused, recycled, or managed in compliance with [section 3]. A manufacturer that has complied with this subsection is not liable for improper disposal by purchasers or consumers of thermostats. Manufacturer collection programs conducted in accordance with solid or hazardous waste rules adopted by the board meet the requirements of this subsection.

NEW SECTION. Section 5. Dental procedures. (1) The department shall work with dentists and other

interested parties to develop a pollution prevention plan for mercury used in or resulting from dental procedures that provides for reasonable measures to reduce mercury pollution from dental procedures and related sources. The plan must include options and strategies for implementing source reduction.

(2) (a) No later than December 31, 2008, a dental office that, in the course of treating its patients, adds, removes, or modifies dental amalgam shall install an amalgam separator system in the wastewater line in accordance with this subsection (2).

(b) Wastewater containing dental amalgam particles must pass through the amalgam separator system prior to discharge to either a publicly owned treatment works or a private septic or waste disposal system, and waste containing dental amalgam must be collected from the amalgam separator system and disposed of in a manner allowed by the rules of the board.

(c) Once the amalgam separator system has been installed, the dental office shall notify the department in writing of the following:

- (i) the type of amalgam separator system installed;
- (ii) that the amalgam separator system is certified as meeting the standards required by subsection (6);
- (iii) the date on which the amalgam separator system became operational; and
- (iv) the method of disposing of the material after removal from the amalgam separator system.

(3) If the amalgam separator system is connected to a publicly owned treatment works, the dental office shall provide the same notification to the director or chief engineer of that facility.

(4) Installation, operation, and maintenance of an approved amalgam separator system by a dentist in accordance with the manufacturer's recommendations fulfill the requirements of this section. A dentist shall demonstrate proper operation and maintenance by maintaining, for a period of 3 years, all shipping records for replacement filters sent to licensed recyclers and written documentation that demonstrates that the amalgam separator system has been properly inspected and maintained.

(5) The department, after receiving proper notification of the installation of the amalgam separator system and after being satisfied that it meets the requirements of this section, shall provide the dentist or the dental office with written confirmation of receipt of evidence of compliance with this section in a format suitable for display by the dentist or dental office.

(6) An amalgam separator system must remove dental amalgam from the waste stream prior to its discharge into either the local public wastewater system or a private septic system located at the dental facility and must meet minimum removal efficiency standards adopted by the board by rule.

NEW SECTION. **Section 6. Education program.** No later than January 1, 2008, the department shall implement an education program relating to mercury-added products. The program must provide information to the public about mercury-added products, the requirements of the law regarding the source separation of waste mercury-added products, and collection programs that are available to the public.

NEW SECTION. **Section 7. Technical assistance.** The department shall assist interested parties in developing collection programs for mercury-added products.

NEW SECTION. **Section 8. Interstate clearinghouse.** The department may participate in the establishment and implementation of a regional, multistate clearinghouse to assist in carrying out the requirements of [sections 1 through 9] and assist in education and outreach activities and other activities related to the administration of [sections 1 through 9].

NEW SECTION. **Section 9. Rulemaking authority.** The board shall adopt rules implementing the provisions of [sections 1 through 9].

NEW SECTION. **Section 10. Codification instruction.** [Sections 1 through 9] are intended to be codified as an integral part of Title 75, and the provisions of Title 75 apply to [sections 1 through 9].

NEW SECTION. **Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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