

**SENATE  
STATE OF MINNESOTA  
EIGHTY-EIGHTH SESSION**

**S.F. No. 2192**

(SENATE AUTHORS: MARTY, Hawj, Hoffman, Eaton and Scalze)

DATE	D-PG	OFFICIAL STATUS
03/03/2014	5926	Introduction and first reading Referred to Environment and Energy
03/06/2014	5974a	Comm report: To pass as amended and re-refer to Commerce
03/26/2014	6821a	Comm report: To pass as amended and re-refer to Judiciary
03/28/2014	7058a	Comm report: To pass as amended
	7156	Second reading
05/02/2014	8641a	Special Order: Amended
	8643	Third reading Passed
05/09/2014	8996	Returned from House with amendment
	8996	Senate not concur, conference committee of 3 requested
	9019	Senate conferees Marty; Hoffman; Osmek
05/12/2014	9024	House conferees Hortman; Mullery; McNamara
05/13/2014	9143c	Conference committee report, delete everything Senate adopted CC report and repassed bill
	9149	Third reading
05/14/2014	9340	House adopted SCC report and repassed bill

A bill for an act

1.1 relating to environment; prohibiting and regulating certain lead and mercury  
1.2 products; regulating certain products containing formaldehyde; amending  
1.3 Minnesota Statutes 2012, sections 115A.932, subdivision 1; 116.92, subdivisions  
1.4 4, 5, 6, 8j, by adding a subdivision; Minnesota Statutes 2013 Supplement,  
1.5 sections 325F.176; 325F.177; proposing coding for new law in Minnesota  
1.6 Statutes, chapter 116.  
1.7

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2012, section 115A.932, subdivision 1, is amended to  
1.10 read:

1.11 Subdivision 1. **Prohibitions and recycling requirements.** (a) A person may not  
1.12 place mercury or a ~~thermostat, thermometer, electric switch, appliance, gauge, medical~~  
1.13 ~~or scientific instrument, fluorescent or high-intensity discharge lamp, electric relay, or~~  
1.14 ~~other electrical~~ mercury-containing device or product, as defined under section 116.92,  
1.15 subdivision 10, from which the mercury has not been removed for reuse or recycling:

1.16 (1) in solid waste; or

1.17 (2) in a wastewater disposal system.

1.18 (b) A person may not knowingly place mercury or a ~~thermostat, thermometer,~~  
1.19 ~~electric switch, appliance, gauge, medical or scientific instrument, fluorescent or~~  
1.20 ~~high-intensity discharge lamp, electric relay, or other electrical~~ mercury-containing device  
1.21 or product, as defined under section 116.92, subdivision 10, from which the mercury has  
1.22 not been removed for reuse or recycling:

1.23 (1) in a solid waste processing facility; or

1.24 (2) in a solid waste disposal facility.

2.1 (c) A fluorescent or high-intensity discharge lamp must be recycled by delivery  
2.2 of the lamp to a lamp recycling facility, as defined in section 116.93, subdivision 1, or  
2.3 to a facility that collects and stores lamps for the purpose of delivering them to a lamp  
2.4 recycling facility, including, but not limited to, a household hazardous waste collection  
2.5 or recycling facility, retailer take-back and utility provider program sites, or other sites  
2.6 designated by an electric utility under section 216B.241, subdivisions 2 and 4.

2.7 Sec. 2. Minnesota Statutes 2012, section 116.92, subdivision 4, is amended to read:

2.8 Subd. 4. **Removal from service; products containing mercury.** (a) When an item  
2.9 listed in ~~subdivision 3~~ this section is removed from service, the mercury in the item must  
2.10 be reused, recycled, or otherwise managed to ensure compliance with section 115A.932.

2.11 (b) A person who is in the business of replacing or repairing an item listed in  
2.12 ~~subdivision 3~~ this section in households shall ensure, or deliver the item to a facility that  
2.13 will ensure, that the mercury contained in an item that is replaced or repaired is reused or  
2.14 recycled or otherwise managed in compliance with section 115A.932.

2.15 (c) A person may not crush a motor vehicle unless the person has first made a good  
2.16 faith effort to remove all of the mercury switches in the motor vehicle.

2.17 (d) An item managed according to the requirements of this section must be  
2.18 transported in a container designed to prevent the escape of mercury into the environment  
2.19 by volatilization or any other means.

2.20 Sec. 3. Minnesota Statutes 2012, section 116.92, subdivision 5, is amended to read:

2.21 Subd. 5. **Thermostats.** (a) The definitions in this paragraph apply to this subdivision:

2.22 (1) "contractor" means any person engaged in the business of installing, servicing, or  
2.23 removing thermostats and other heating, ventilation, and air conditioning components,  
2.24 including contractors removing thermostats in renovation and demolition activities in  
2.25 accordance with Minnesota Rules, chapter 7035;

2.26 (2) "qualified contractor" means any contractor who employs seven or more service  
2.27 technicians or installers or who is located in an area outside of an urban area, as defined by  
2.28 the United States Census Bureau, or whose primary business is renovation and demolition  
2.29 activities;

2.30 (3) "retailer" means any person who sells thermostats of any kind directly to  
2.31 homeowners or other nonprofessionals through any selling or distribution mechanism; and

2.32 (4) "wholesaler" means any person who is engaged in the distribution and wholesale  
2.33 sale of thermostats and other heating, ventilation, and air conditioning components to  
2.34 contractors who install heating, ventilation, and air conditioning components.

3.1 (b) A manufacturer of thermostats that contain mercury or that may replace  
3.2 thermostats that contain mercury is responsible for the costs of collecting and managing  
3.3 the replaced mercury-containing thermostats to ensure that the thermostats do not become  
3.4 part of the solid waste stream.

3.5 (c) A manufacturer of thermostats that contain mercury or that may replace  
3.6 thermostats that contain mercury shall, in addition to the requirements of subdivision 3,  
3.7 provide incentives for and sufficient information to purchasers and consumers of the  
3.8 thermostats for the purchasers or consumers to ensure that mercury in thermostats being  
3.9 removed from service is reused or recycled or otherwise managed in compliance with  
3.10 section 115A.932. A manufacturer that has complied with this subdivision is not liable for  
3.11 improper disposal by purchasers or consumers of thermostats.

3.12 (d) A manufacturer subject to this subdivision, or an organization of such  
3.13 manufacturers and its officers, members, employees, and agents, may participate in  
3.14 projects or programs to collect and properly manage waste thermostats. Any person  
3.15 who participates in such a project or program is immune from liability under state law  
3.16 relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade  
3.17 or commerce for activities related to the collection and management of the thermostats  
3.18 under this subdivision.

3.19 (e) A manufacturer or organization of manufacturers that participates in a project or  
3.20 program as required under this subdivision must report at least annually to the agency.

3.21 The report must include:

3.22 (1) a description of how the program operates;

3.23 (2) a description of program components, including incentives required under this  
3.24 subdivision, and an evaluation of their effectiveness in promoting participation and  
3.25 recovery;

3.26 (3) eligibility criteria for program participants;

3.27 (4) a list of program participants; and

3.28 (5) the number of thermostats remitted by each program participant during the  
3.29 reporting period.

3.30 (f) A wholesaler, qualified contractor, or retailer may participate as a collection  
3.31 site in a manufacturer's mercury thermostat collection and recycling program required  
3.32 under this subdivision. A wholesaler or retailer that participates as a collection site in a  
3.33 manufacturer's mercury thermostat collection and recycling program shall post visible  
3.34 signs at such wholesaler's or retailer's location concerning the collection and recycling  
3.35 of mercury thermostats.

4.1 (g) For the purposes of this subdivision, "thermostat" means a temperature control  
 4.2 device that may contain elemental mercury in a sealed component that serves as a switch  
 4.3 or temperature-sensing element and a sealed component that has been removed from  
 4.4 such a temperature control device.

4.5 Sec. 4. Minnesota Statutes 2012, section 116.92, subdivision 6, is amended to read:

4.6 Subd. 6. **Mercury thermometers prohibited.** (a) A manufacturer, wholesaler, or  
 4.7 retailer may not sell or distribute at no cost a thermometer containing mercury that was  
 4.8 manufactured after June 1, 2001.

4.9 (b) Paragraph (a) does not apply to:

4.10 (1) an electronic thermometer with a battery containing mercury if the battery is in  
 4.11 compliance with section 325E.125;

4.12 (2) a mercury thermometer used for food research and development or food  
 4.13 processing, including meat, dairy products, and pet food processing;

4.14 (3) a mercury thermometer that is a component of an animal agriculture climate  
 4.15 control system or industrial measurement system until such time as the system is replaced  
 4.16 or a nonmercury component for the system is available; or

4.17 (4) a mercury thermometer used for calibration of other thermometers, apparatus, or  
 4.18 equipment, unless a nonmercury calibration standard is approved for the application by  
 4.19 the National Institute of Standards and Technology.

4.20 (c) A manufacturer is in compliance with this subdivision if the manufacturer:

4.21 (1) has received an exclusion or exemption from a state that is a member of the  
 4.22 Interstate Mercury Education and Reduction Clearinghouse (IMERC) for replacement  
 4.23 parts when no alternative is available or for an application when no feasible alternative is  
 4.24 available;

4.25 (2) submits a copy of the approved exclusion or exemption to the commissioner; and

4.26 (3) meets all of the requirements in the approved exclusion or exemption for the  
 4.27 manufacturer's activities within the state.

4.28 Sec. 5. Minnesota Statutes 2012, section 116.92, subdivision 8j, is amended to read:

4.29 Subd. 8j. **Exclusion for existing equipment.** The prohibitions in subdivisions 6  
 4.30 and 8b to 8g do not apply if a thermometer, switch, relay, or measuring device is used  
 4.31 to replace a thermometer, switch, relay, or measuring device that is a component of a  
 4.32 larger product in use prior to January 1, 2008, provided the owner of that equipment has  
 4.33 made every reasonable effort to determine that no compatible nonmercury replacement  
 4.34 component exists an industrial measurement system or control system until the system

5.1 is replaced or a nonmercury component for the system is available. The owner of the  
5.2 system shall notify the commissioner within 30 days and identify the replacement mercury  
5.3 component that was installed.

5.4 Sec. 6. Minnesota Statutes 2012, section 116.92, is amended by adding a subdivision to  
5.5 read:

5.6 Subd. 8k. **Ban; mercury in balancing and dampening products and**  
5.7 **equipment.** A person may not sell, offer for sale, distribute, install, or use in the state a  
5.8 mercury-containing product or mercury-containing equipment that is used for balancing,  
5.9 dampening, or providing a weight or counterweight function.

5.10 **EFFECTIVE DATE.** This section is effective January 1, 2015.

5.11 Sec. 7. **[116.931] WHEEL WEIGHTS AND BALANCING PRODUCTS; LEAD**  
5.12 **AND MERCURY PROHIBITION.**

5.13 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms  
5.14 have the meanings given.

5.15 (b) "Motor vehicle" means a self-propelled vehicle or a vehicle propelled or drawn  
5.16 by a self-propelled vehicle that is operated on a highway, on a railroad track, on the  
5.17 ground, in the water, or in the air.

5.18 (c) "New motor vehicle" means a motor vehicle that has not been previously sold to  
5.19 a person except a distributor, wholesaler, or motor vehicle dealer for resale.

5.20 Subd. 2. **Tire service.** When replacing or balancing a tire on a motor vehicle or  
5.21 aircraft, a person may not use a wheel weight or other product for balancing motor vehicle  
5.22 or aircraft wheels if the weight or other balancing product contains lead or mercury that  
5.23 was intentionally added during the manufacture of the product.

5.24 Subd. 3. **Sales ban.** A person may not sell or offer to sell or distribute weights  
5.25 or other products for balancing motor vehicle or aircraft wheels if the weight or other  
5.26 balancing product contains lead or mercury that was intentionally added during the  
5.27 manufacture of the product.

5.28 Subd. 4. **New motor vehicles.** A person may not sell a new motor vehicle or  
5.29 aircraft that is equipped with a weight or other product for balancing wheels if the weight  
5.30 or other balancing product contains lead or mercury that was intentionally added during  
5.31 the manufacture of the product.

5.32 Subd. 5. **Salvage.** A person may not shred or crush, or market for shredding or  
5.33 crushing, any motor vehicle, aircraft, watercraft, or railroad or industrial equipment,  
5.34 or any portion thereof, without:

6.1 (1) inspecting the vehicle or equipment; and  
 6.2 (2) removing all weights or other products for balancing wheels or other equipment  
 6.3 if the weights or balancing products contain lead or mercury that was intentionally added  
 6.4 during the manufacture of the weights or balancing products.

6.5 Subd. 6. **Management of wheel weights and balancing products.** Mercury in  
 6.6 wheel weights and other balancing products for motor vehicle and aircraft wheels must  
 6.7 be recycled or otherwise managed to comply with sections 115A.932 and 116.92 and to  
 6.8 ensure that it does not become part of the solid waste stream and are not released to the  
 6.9 environment. Lead in wheel weights and other balancing products for motor vehicles and  
 6.10 aircraft wheels must be recycled to ensure that it does not become part of the solid waste  
 6.11 stream and is not released to the environment.

6.12 Subd. 7. **Educational materials; outreach.** Prior to the effective date of this  
 6.13 section, the agency shall produce and distribute educational materials on the prohibitions  
 6.14 required under this section to businesses subject to the prohibitions and shall conduct  
 6.15 additional outreach and education activities to those businesses.

6.16 **EFFECTIVE DATE.** This section is effective January 1, 2016.

6.17 Sec. 8. Minnesota Statutes 2013 Supplement, section 325F.176, is amended to read:

6.18 **325F.176 DEFINITIONS.**

6.19 (a) For the purposes of sections 325F.176 to 325F.178, the following terms have  
 6.20 the meanings given them.

6.21 (b) "Child" means a person under eight years of age.

6.22 (c) "Children's product" means a product primarily designed or intended by a  
 6.23 manufacturer to be physically applied to or introduced into a child's body, including any  
 6.24 article used as a component of such a product and excluding a food, beverage, dietary  
 6.25 supplement, pharmaceutical product or biologic, children's toys that are covered by the  
 6.26 ASTM International F963 standard for Toy Safety, or a medical device as defined in  
 6.27 the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321(h),  
 6.28 as amended through February 15, 2013.

6.29 (d) "Intentionally added chemical" means a chemical in a product that serves an  
 6.30 intended function in the product.

6.31 Sec. 9. Minnesota Statutes 2013 Supplement, section 325F.177, is amended to read:

6.32 **325F.177 FORMALDEHYDE IN CHILDREN'S PRODUCTS; BAN.**

7.1 (a) Beginning August 1, 2014, no manufacturer or wholesaler may sell or offer for  
7.2 sale in this state a children's product that intentionally contains:

7.3 (1) formaldehyde, including formaldehyde contained in a solution; or

7.4 (2) intentionally added chemical ingredients that chemically degrade under normal  
7.5 conditions of temperature and pressure to release free formaldehyde at levels exceeding a  
7.6 de minimis level of 0.05 percent.

7.7 (b) Beginning August 1, 2015, no retailer may sell or offer for sale in this state a  
7.8 children's product that intentionally contains:

7.9 (1) formaldehyde, including formaldehyde contained in a solution; or

7.10 (2) intentionally added chemical ingredients that chemically degrade under normal  
7.11 conditions of temperature and pressure to release free formaldehyde at levels exceeding a  
7.12 de minimis level of 0.05 percent.