

CHAPTER 109—S.F.No. 1085

An act relating to health and the environment; prohibiting the sale of certain mercury-containing products; modifying restrictions on the sale, use, and disposal of certain mercury-containing products; requiring certain consumer information; modifying lamp recycling facility operation requirements; providing for consumer education regarding fluorescent bulbs; amending Minnesota Statutes 2006, sections 115A.932, subdivision 1; 116.92, subdivisions 3, 7a, by adding subdivisions; 116.93, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 116; 121A; 325E.

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

Section 1. Minnesota Statutes 2006, section 115A.932, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions and recycling requirements.** (a) A person may not place mercury or a thermostat, thermometer, electric switch, appliance, gauge, medical or scientific instrument, or fluorescent or high-intensity discharge lamp, electric relay, or other electrical device from which the mercury has not been removed for reuse or recycling:

- (1) in solid waste; or
- (2) in a wastewater disposal system.

(b) A person may not knowingly place mercury or a thermostat, thermometer, electric switch, appliance, gauge, medical or scientific instrument, or fluorescent or high-intensity discharge lamp, electric relay, or other electrical device from which the mercury has not been removed for reuse or recycling:

- (1) in a solid waste processing facility; or
- (2) in a solid waste disposal facility, as defined in section 115.01, subdivision 4.

~~(c) A person may not knowingly place a fluorescent or high intensity discharge lamp:~~

- ~~(1) in solid waste; or~~
- ~~(2) in a solid waste facility, except a household hazardous waste collection or recycling facility.~~

~~This paragraph does not apply to waste lamps generated by households until August 1, 1994.~~

(c) A fluorescent or high-intensity discharge lamp must be recycled by delivery of the lamp to a lamp recycling facility, as defined in section 116.93, subdivision 1, or to a facility that collects and stores lamps for the purpose of delivering them to a lamp recycling facility, including, but not limited to, a household hazardous waste collection

or recycling facility, retailer take-back and utility provider program sites, or other sites designated by an electric utility under section 216B.241, subdivisions 2 and 4.

Sec. 2. Minnesota Statutes 2006, section 116.92, subdivision 3, is amended to read:

Subd. 3. **Labeling; products containing mercury.** (a) A manufacturer or wholesaler may not sell and a retailer may not knowingly sell any of the following items in this state that contain mercury unless the item is labeled in a manner to clearly inform a purchaser or consumer that mercury is present in the item and that the item may not be placed in the garbage until the mercury is removed and reused, recycled, or otherwise managed to ensure that it does not become part of solid waste or wastewater:

- (1) a thermostat or thermometer;
- (2) an electric switch, individually or as part of another product, other than a motor vehicle;
- (3) an appliance;
- (4) a medical or scientific instrument; ~~and~~
- (5) an electric relay or other electrical device; ~~;~~
- (6) a fluorescent or high-intensity discharge lamp, individually or as part of another product; and
- (7) laboratory chemicals, reagents, fixatives, and electrodes.

(b) Labeling of items in accordance with mercury product labeling plans approved by another state that is a member of the Interstate Mercury Education and Reduction Clearinghouse (IMERC) shall be considered to be in compliance with this section. The manufacturer shall provide a copy of the labeling plan to the agency and shall notify the agency if the approval is modified.

(c) Manufacturers of products that contain a mercury-containing lamp not intended to be replaceable by the user or consumer shall meet the product labeling requirements of this section by placing the label on the product or in the care and use manual or product instructions.

EFFECTIVE DATE. Paragraphs (b) and (c) apply to products manufactured on or after January 1, 2008.

Sec. 3. Minnesota Statutes 2006, section 116.92, subdivision 7a, is amended to read:

Subd. 7a. **Fluorescent and high-intensity discharge lamps; residential applications.** (a) Any information regarding fluorescent and high-intensity discharge lamps containing mercury that is sent by a utility to a customer, present on a utility's Web site, or contained in a utility's print, radio, or video advertisement, must:

- (1) state that the lamps contain mercury;
- (2) state that mercury is harmful to the environment ~~and~~;
- (3) state that ~~it is illegal to place them~~ placing the lamps in garbage is illegal; and
- ~~(2)~~ (4) provide a toll-free telephone number or Web site that customers can access to learn how to lawfully dispose of the lamps.

(b) The information under paragraph (a) must be:

(1) provided in a minimum of 12-point type in print or online media; and

(2) provided in a manner that the ordinary consumer will understand that fluorescent and high-intensity discharge lamps contain mercury and must not be placed in garbage in Minnesota.

(c) A television or radio advertisement regarding fluorescent and high-intensity discharge lamps containing mercury must prominently convey the information that the lamps contain mercury and must be recycled.

Sec. 4. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8b. **Ban; mercury-containing sphygmomanometers.** After August 1, 2007, a person may not sell, offer for sale, distribute, install, or reinstall in the state a sphygmomanometer containing mercury.

Sec. 5. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8c. **Ban; mercury-containing gastrointestinal devices.** After August 1, 2007, a person may not sell, offer for sale, distribute, or use in the state an esophageal dilator, bougie tube, gastrointestinal tube, feeding tube, or similar device containing mercury.

Sec. 6. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8d. **Ban; mercury-containing thermostats.** After August 1, 2007, a person may not sell, offer for sale, distribute, install, or reinstall in the state a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air-conditioning equipment. This subdivision does not apply to a thermostat used to sense and control temperature as part of a manufacturing process.

Sec. 7. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8e. **Ban; mercury-containing switches and relays.** (a) After August 1, 2007, a person may not sell, offer for sale, or distribute in the state a mercury switch or mercury relay individually or as part of another product.

(b) For the purposes of this subdivision:

(1) "mercury relay" means a mercury-containing product or device that opens or closes electrical contacts to affect the operation of other devices in the same or another electrical circuit and includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays; and

(2) "mercury switch" means a mercury-containing product or device that opens or closes an electrical circuit or gas valve and includes, but is not limited to, 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. A mercury switch does not include a mercury-added thermostat or a mercury diostat.

(c) A manufacturer shall be in compliance with this subdivision if:

(1) it has received an exclusion or exemption from a state that is a member of the Interstate Mercury Education and Reduction Clearinghouse (IMERC) for replacement parts or for a use where no feasible alternative is available;

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

(3) it meets all of the requirements in the approved exclusion or exemption for its activities within the state.

Sec. 8. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8f. **Ban; mercury diostats.** After January 1, 2008, a person may not sell, offer for sale, or distribute a new gas oven, range, or stove containing a mercury-containing switch that controls a gas valve in an oven or oven portion of a gas range or stove.

Sec. 9. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8g. **Ban; mercury-containing barometers, manometers, and pyrometers.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state a mercury-containing device used for measuring atmospheric pressure or for measuring pressure of liquids and gases or a mercury-containing device used for measuring the temperature of extremely hot materials, individually or as part of another product.

Sec. 10. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8h. **Ban; mercury in over-the-counter pharmaceuticals.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state for human use an over-the-counter pharmaceutical product containing mercury.

Sec. 11. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8i. **Ban; mercury in cosmetics, toiletries, and fragrances.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state a cosmetic, toiletry, or fragrance product containing mercury.

Sec. 12. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 8j. **Exclusion for existing equipment.** The prohibitions in subdivisions 8b to 8g of this section do not apply if a switch, relay, or measuring device is used to replace a switch, relay, or measuring device that is a component of a larger product in use prior to January 1, 2008, provided the owner of that equipment has made every reasonable effort to determine that no compatible nonmercury replacement component exists.

Sec. 13. Minnesota Statutes 2006, section 116.92, is amended by adding a subdivision to read:

Subd. 10. **Definition of mercury-containing.** For the purposes of this section, "mercury-containing" or "containing mercury" means that the product, component of a product, or chemical formulation contains intentionally added mercury.

Sec. 14. **[116.921] MULTISTATE CLEARINGHOUSE.**

The agency is authorized to participate in the Interstate Mercury Education and Reduction Clearinghouse (IMERC) to assist in carrying out the requirements and coordinating any other activities related to the administration of statutes governing the purchase, sale, use, labeling, disposal, and management of mercury and mercury-containing products.

Sec. 15. Minnesota Statutes 2006, section 116.93, subdivision 2, is amended to read:

Subd. 2. **Lamp recycling facility; permits or licenses; reporting.** (a) A person may not operate a lamp recycling facility without obtaining a permit or license for the facility from the agency. The permit or license must require:

- (1) a plan for response to releases, including emergency response;
- (2) proof of financial responsibility for closure and any necessary postclosure care at the facility which may include a performance bond or other insurance; ~~and~~
- (3) liability insurance or another financial mechanism that provides proof of financial responsibility for response actions required under chapter 115B; and
- (4) by March 1 each year, beginning in 2008, an annual report to the agency on the number and type of lamps received from businesses and households in the state and total number of lamps received from all generators outside of the state.

The agency shall specify the format for the report under clause (4) and make the reported information available on the agency's Web site.

(b) A lamp recycling facility that is licensed or permitted by a county under section 473.811, subdivision 5b, complies with this subdivision if the license or permit held by the facility contains at least all the terms and conditions required by the agency for a license or permit issued under this subdivision.

(c) A lamp recycling facility with a demonstrated capability for recycling that is in operation prior to adoption of rules for a licensing or permitting process for the facility by the agency may continue to operate in accordance with a compliance agreement or other approval by the commissioner until a license or permit is issued by the agency under this subdivision.

Sec. 16. **[121A.33] CERTAIN MERCURY USE IN SCHOOLS PROHIBITED.**

(a) For the purposes of this section, "school" has the meaning given under section 120A.22, subdivision 4, excluding home schools.

(b) After December 31, 2007, a school shall not:

- (1) purchase or use elemental mercury for any purpose; and

(2) purchase or use an instrument of measurement that contains mercury, including, but not limited to, a thermometer, barometer, or sphygmomanometer, or a manometer containing mercury.

(c) After December 31, 2009, a school shall not:

(1) store elemental mercury for any purpose; and

(2) store an instrument of measurement that contains mercury, including, but not limited to, a thermometer, barometer, sphygmomanometer, or a manometer containing mercury.

(d) This section does not apply to thermostats for heating, ventilation, and air conditioning in the school.

Sec. 17. **[325E.127] NOTICE FOR FLUORESCENT LAMPS CONTAINING MERCURY.**

(a) A person who sells fluorescent lamps at retail must post the notice in paragraph (b) in a manner clearly visible to a consumer examining fluorescent lamps offered for sale.

(b) The notice must be in 36-point type or larger and state:

"Fluorescent bulbs save energy and reduce environmental pollution. Note: Fluorescent bulbs contain a small amount of mercury and must be recycled at the end of their use. Contact your county or utility for recycling options."

(c) A retailer may include additional language in the notice in order to promote the sale of fluorescent lamps, provided that the language in paragraph (b) is present.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 18. **CONSUMER EDUCATION REGARDING FLUORESCENT BULBS.**

Before July 1, 2008, the legislature shall examine and consider alternative methods to those established in Minnesota Statutes, section 325E.127, to educate consumers about the presence of mercury in fluorescent lamps and the requirement that they be recycled, and shall proceed to enact methods deemed to be effective.

Presented to the governor May 18, 2007

Signed by the governor May 21, 2007, 2:56 p.m.