

2007 DRAFTING REQUEST

Bill

Received: **03/23/2007**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Dan Kanninen**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Mercury-added products and services

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 03/27/2007	kfollett 03/29/2007		_____			
/P1	csundber 11/29/2007	kfollett 11/30/2007	pgreensl 03/30/2007	_____	cduerst 03/30/2007		State
/1			nnatzke 11/30/2007	_____	cduerst 11/30/2007	cduerst 11/30/2007	

FE Sent For: "1" @ intro. 12-3-2007
<END>

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/P1	csundber 11/29/2007	kfollett 11/30/2007	pgreensl 03/30/2007	_____	cduerst 03/30/2007		State
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/?	csundber 03/27/2007	kfollett 03/29/2007					
/P1		11/gjf 11/30	pgreensl 03/30/2007 nwn 11/30		cduerst 03/30/2007		

FE Sent For:

<END>

PA3:
Please
jacket
when
ready
CS

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Subject: **Trade Regulation - other**

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Pre Topic:

No specific pre topic given

Topic:

Mercury-added products and services

Instructions:

See Attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber	1 p1/cf 3/20/07	3/20/07 ps	3/20/07 1/3 ps/m			

FE Sent For:

<END>

Sundberg, Christopher

From: Kite, Robin
Sent: Friday, March 23, 2007 8:23 AM
To: Sundberg, Christopher
Cc: Gibson-Glass, Mary
Subject: FW: Draft Request

Attachments: Mercury Products Draft .pdf

Chris:

I think this draft is a trade regulation draft. I did 3 or 4 drafts prohibiting mercury in thermometers several sessions ago. Please let me know if you agree that this should be your draft and I will let Dan Kanninen know. If Mary has already talked to you about this, please disregard.

Thanks.

Robin

From: Kanninen, Dan
Sent: Thursday, March 22, 2007 3:18 PM
To: 'Gibson-Glass, Mary'; Kite, Robin
Subject: Draft Request

Hi Mary and Robin,

I'm not sure which of you (if either) would handle this request...we have a model draft (attached) for a mercury products phase-out that Senator Jauch would like drafted asap...can you let me know who will be working on this and when approximately you think a draft could be ready?

Much appreciated!

dk



Mercury Products
Draft .pdf (4...

Dan Kanninen
Chief of Staff
Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-213-3510 (cellular)

12-11-06 DRAFT

X. Mercury-added product. "Mercury-added product" means a product to which mercury is intentionally added during formulation or manufacture, or a product containing one or more components to which mercury is intentionally added during formulation or manufacture.

X. Mercury relay. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes mercury displacement relays, mercury wetted reed relays and mercury contact relays.

X. Mercury switch. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve. "Mercury switch" 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. "Mercury switch" does not include a mercury-added thermostat.

Restrictions on sale and use of mercury

X. Fever thermometers. Effective _____, a person may not sell or supply a mercury fever thermometer to consumers and patients, except by prescription. With each mercury fever thermometer sold by prescription, the manufacturer shall supply clear instructions on the careful handling of the thermometer to avoid breakage and on proper cleanup should breakage occur. For purposes of this subsection, a "mercury fever thermometer" means a thermometer that contains mercury for the purpose of measuring body temperature, but does not include a thermometer containing mercury solely within a button-cell battery.

X. Manometers. Effective _____, a mercury-containing manometer of the type used in milking machines on dairy farms may not be sold or offered for sale, or distributed for promotional purposes in the State. Manufacturers of such manometers shall notify wholesalers and retailers about this ban and shall instruct them on how to properly dispose of the remaining inventory. The department, in consultation with the Department of Agriculture, Food and Rural Resources, shall conduct a program to collect and replace mercury-containing manometers already in use on dairy farms in the State.

X. Mercury-added thermostats. Effective one year after enactment, a person may not sell or offer to sell or distribute for promotional purposes a mercury-added thermostat. For the purposes of this subsection, 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. "Mercury-added thermostat" 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.

X. Instruments and measuring devices. Effective one year after enactment, a person may not sell or offer to sell or distribute the following mercury-added products:

- A. A barometer;
- B. An esophageal dilator, bougie tube or gastrointestinal tube;
- C. A flow meter;
- D. A hydrometer;
- E. A hygrometer or psychrometer;
- F. A manometer other than a manometer prohibited from sale under section _____;
- G. A pyrometer;
- H. A sphygmomanometer; or
- I. A thermometer other than a thermometer prohibited from sale under section _____.

This subsection does not apply to the sale of a mercury-added product listed in paragraphs A to I if use of the product is a federal requirement or if the only mercury-added component in the product is a button cell battery.

X. Mercury switches and relays. Effective one year after enactment, a person may not sell or offer to sell or distribute a mercury switch or mercury relay individually or as a product component. This prohibition does not apply if the switch or relay is used to replace a switch or relay that is a component in a larger product in use prior to {insert effective date} and one of the following applies:

- A. The larger product is used in manufacturing; or

**Title 38, Chapter 16-B, MERCURY-ADDED PRODUCTS AND SERVICES (HEADING: PL 1999, c. 779, @2
(new))**

B. The switch or relay is integrated and not physically separate from other components of the larger product.

This subsection does not apply to the sale of a mercury switch or mercury relay if use of the switch or relay is a federal requirement.

X. Exemptions. Sections {insert section number for instruments/measuring devices} and {insert section number for switches/relays} do not apply to the sale of a mercury-added product for which an exemption is obtained under this subsection. The manufacturer or user of the product may apply for an exemption by filing a written petition with the commissioner. The commissioner may grant an exemption with or without conditions upon finding that:

A. The mercury-added product is reasonable and appropriate for a specific use. In this situation, the petitioner must demonstrate that:

(1) A system exists for the proper collection, transportation and processing of the product at the end of its life; and

(2) One of the following applies:

(a) Use of the product provides a net benefit to the environment, public health or public safety when compared to available nonmercury alternatives; or

(b) Technically feasible nonmercury alternatives are not available at comparable cost.

Prior to approving an exemption, the commissioner may consult with neighboring states, by means of the interstate clearinghouse under section _____ or otherwise, to promote consistency in the way in which mercury-added products are regulated. The commissioner may request individuals receiving an exemption to maintain records and provide reasonable reports to the department that characterize mercury use. Exemptions may be granted for a term not to exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of this subsection and the manufacturer or other persons comply with the conditions of its original approval. The board shall adopt rules for processing exemption applications that provide for public participation, taking into account the role of the interstate clearinghouse.

X. Interstate clearinghouse

The department may participate in the establishment and implementation of a regional, multistate clearinghouse to assist in carrying out the requirements of this chapter.

Date (time) needed

1u: 3/27/07

LRB - 2316 / P1

BILL

(d-note)

CTS : rjf:

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] **to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .** of the statutes; **relating to:** . . . products containing mercury and granting rule-making authority.

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: **create → anal: → title: → head**

For the subheading, execute: **create → anal: → title: → sub**

For the sub-subheading, execute: **create → anal: → title: → sub-sub**

For the analysis text, in the component bar:

For the text paragraph, execute: **create → anal: → text**

(anal: prelim)

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

INSERT

(B) 100.275

Plins

2007-2008 DRAFTING INSERT

LRB-2316/ins

FROM THE

LEGISLATIVE REFERENCE BUREAU

SECTION# CR; 100.275 Products containing mercury

(1) Definitions. In this section: (a)

(X) Mercury-added product. "Mercury-added product" means a product to which mercury is intentionally added during formulation or manufacture, or a product containing one or more components to which mercury is intentionally added during formulation or manufacture. (b)

(X) Mercury relay. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes mercury displacement relays, mercury wetted reed relays, and mercury contact relays. (c)

(X) Mercury switch. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve. "Mercury switch" 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. "Mercury switch" does not include a mercury-added thermostat.

(2) RESTRICTIONS ON SALE AND USE OF MERCURY

(X) Fever thermometers. Effective XX/XX/XX, a person may not sell or supply a mercury fever thermometer to consumers and patients, except by prescription. With each mercury fever thermometer sold by prescription, the

manufacturer shall supply clear instructions on the careful handling of the thermometer to avoid breakage and on proper cleanup should breakage occur. For purposes of this subsection, a "mercury fever thermometer" means a thermometer

unless the thermometer has been prescribed for the consumer or patient by a practitioner, as defined in s. 450.01 (17).

that contains mercury for the purpose of measuring body temperature, but does not include a thermometer containing mercury solely within a button-cell battery.

(X) Manometers. ^{no. (B) (I)} ~~Effective XX/XX/XX,~~ a mercury-containing manometer of the type in milking machines on dairy farms ^{no person may sell or distribute} ~~may not be sold or offered for sale, or distributed for promotional purposes in the state.~~ Manufacturers of ~~such~~ manometers shall notify wholesalers and retailers ^{mercury-containing} ~~about this ban~~ and shall instruct them on ^{the proper disposal} ~~how to properly dispose of the remaining inventory.~~ The department, ^{of such manometers is prohibited} ~~in consultation with the Department of Agriculture, Food, and Rural Resources,~~ shall conduct a program to collect and replace mercury-containing manometers already in use on dairy farms in the state.

(X) Mercury-added thermostats. ^{no. (B) (I)} ~~Effective one year after enactment,~~ a person may ^{no} ~~not~~ sell or offer to sell or distribute for promotional purposes a mercury-added thermostat. For the purpose of this subsection, ^(c) 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. "Mercury-added thermostat" 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.

(X) Instruments and measuring devices. ^{no. (B) (I)} ~~Effective one year after enactment,~~ a person may ^{no} ~~not~~ sell or offer to sell or distribute the following mercury-added products:

- (a) A barometer.
- (b) An esophageal dilator, bougie tube, or gastrointestinal tube.
- (c) A flow meter.

- (d) A hydrometer.
 - (e) A hygrometer or psychrometer.
 - (f) A manometer other than a manometer prohibited from sale under section par. (b)
 - (g) A pyrometer.
 - (h) A sphygmomanometer.
 - (i) A thermometer other than a thermometer prohibited from sale under section par. (a)
- Handwritten notes: 'XXX' circled next to (f) and (i); 'd.', 'e.', 'f.', 'g.', 'h.', 'i.' written above items; '2. Subdivision 1.' written next to (i); 'par. (b)' and 'par. (a)' written to the right of (f) and (i) respectively.*

(X) This subsection does not apply to the sale of a mercury-added product listed in pars. (a) to (i) if use of the product is a federal requirement or if the only mercury-added component in the product is a button cell battery.

Handwritten notes: 'Subd. 1. a. to i.' written below 'pars. (a) to (i)'; 'a federal requirement' underlined; 'required under federal law' written below 'a federal requirement'.

(X) Mercury switches and relays. Effective one year after enactment, a person may not sell or offer to sell or distribute a mercury switch or mercury relay individually or as a product component. This prohibition does not apply if the switch or relay is used to replace a switch or relay that is a component in a larger product in use prior to XX/XX/XX, and one of the following applies:

Handwritten notes: 'no #1. No' written to the left; 'no #3' and 'I' circled above 'Mercury switches and relays.'; 'individually or as a product component' underlined; 'subdivision' written below 'individually or as a product component'; 'to a' written below 'product component'; 'that' written above 'switch or relay'; 'if one' written above 'and one'; 'the effective date of this subdivision...' written above 'XX/XX/XX'; 'reviser inserts date' written to the right of 'XX/XX/XX'.

- (a) The larger product is used in manufacturing.
 - (b) The switch or relay is integrated and not physically separate from other components of the larger product.
- Handwritten notes: 'with' written below (b); '3' written to the right of (b).*

(X) This subsection does not apply to the sale of a mercury switch or mercury relay if use of the switch or relay is a federal requirement.

Handwritten notes: '2. Subdivision 1.' written below 'This subsection'; '3' written above 'if use'.

(X) Exemptions. Sections _____ and _____ and _____ do not apply to the sale of mercury-added product for which an exemption is obtained under this subsection. The manufacturer or user of the product may apply for an exemption

Handwritten notes: 'CS' circled above 'Exemptions.'; '3' circled above 'Sections'; 'no #3' written above 'Sections'; '(a) This section does not' written above 'Sections'; 'the secretary grants' written above 'is obtained'; 'a' written below 'product'.

Handwritten notes: 'P (b) A' written at the bottom left; 'from this section' written at the bottom right.

Insert to LRB-2316/Plins:

action NS: CBE #. Effective date.

effective date A

→ (1) This act takes effect on the ^{first} (1st) day of the 12th month beginning after publication.

(END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2316/P1dn

CTS:...

kjf

Date

Senator Jauch:

This is a preliminary draft. Please review it carefully to ensure it is consistent with your intent.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2316/P1dn
CTS:kjf:pg

March 30, 2007

Senator Jauch:

This is a preliminary draft. Please review it carefully to ensure it is consistent with your intent.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

Sundberg, Christopher

From: Kanninen, Dan
Sent: Thursday, November 29, 2007 3:18 PM
To: Sundberg, Christopher
Subject: FW: LRB 07-2316/P1 attached incl. D-note

Attachments: 07-2316/P1; 07-2316/P1dn

Chris,

Sen. Jauch would like to introduce the P draft below. Can you get a slash 1 and jacket it for us?

Thanks much-

dk

*Dan Kanninen
Chief of Staff
Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-213-3510 (cellular)*

From: Duerst, Christina
Sent: Tuesday, July 31, 2007 8:50 AM
To: Kanninen, Dan
Subject: LRB 07-2316/P1 attached incl. D-note



07-2316P1.pdf (23 KB)



07-2316P1dn.pdf (9 KB)



ln: 11/29/07 wanted: soon

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2316/P1

RMMR

CTS:kjf:pg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2007 BILL

Regen

INS
A

1 AN ACT to create 100.275 of the statutes; relating to: products containing
2 mercury and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 100.275 of the statutes is created to read:

4 **100.275 Products containing mercury. (1) DEFINITIONS.** In this section:

5 (a) "Mercury-added product" means a product to which mercury is
6 intentionally added during formulation or manufacture, or a product containing one
7 or more components to which mercury is intentionally added during formulation or
8 manufacture.

9 (b) "Mercury relay" means a mercury-added product or device that opens or
10 closes electrical contacts to effect the operation of other devices in the same or

1 another electrical circuit. "Mercury relay" includes mercury displacement relays,
2 mercury wetted reed relays, and mercury contact relays.

3 (c) "Mercury switch" means a mercury-added product or device that opens or
4 closes an electrical circuit or gas valve. "Mercury switch" includes mercury float
5 switches actuated by rising or falling liquid levels, mercury tilt switches actuated by
6 a change in the switch position, mercury pressure switches actuated by a change in
7 pressure, mercury temperature switches actuated by a change in temperature, and
8 mercury flame sensors. "Mercury switch" does not include a mercury-added
9 thermostat.

10 (2) RESTRICTIONS ON SALE AND USE OF MERCURY. (a) *Fever thermometers.* No
11 person may sell or supply a mercury fever thermometer to a consumer or patient,
12 unless the thermometer has been prescribed for the consumer or patient by a
13 practitioner, as defined in s. 450.01 (17). A mercury fever thermometer
14 manufacturer shall supply with each thermometer clear instructions on the careful
15 handling of the thermometer to avoid breakage and on proper cleanup if the
16 thermometer breaks. For purposes of this subsection, "mercury fever thermometer"
17 means a thermometer that contains mercury for the purpose of measuring body
18 temperature, but does not include a thermometer containing mercury solely within
19 a button cell battery.

ital,
no CS

20 (b) MANOMETERS No person may sell or distribute a mercury-containing
21 manometer of the type in milking machines on dairy farms. Manufacturers of
22 ^{such} mercury-containing manometers shall notify wholesalers and retailers that the sale
23 or distribution of such manometers is prohibited and shall instruct them on the
24 proper disposal of remaining inventory. The department shall ~~conduct~~ a program to

2 promulgate rules
establishing

1 collect and replace mercury-containing manometers already in use on dairy farms
2 in the state.

3 (c) *Mercury-added thermostats.* No person may sell or distribute for
4 promotional purposes a mercury-added thermostat. For the purpose of this
5 subsection, "mercury-added thermostat" means a product or device that uses a
6 mercury switch to sense and control room temperature through communication with
7 heating, ventilating, or air-conditioning equipment. "Mercury-added thermostat"
8 includes thermostats used to sense and control room temperature in residential,
9 commercial, industrial, and other buildings, but does not include a thermostat used
10 to sense and control temperature as part of a manufacturing process.

11 (d) *Instruments and measuring devices.* 1. No person may sell or distribute the
12 following:

- 13 a. A barometer.
- 14 b. An esophageal dilator, bougie tube, or gastrointestinal tube.
- 15 c. A flow meter.
- 16 d. A hydrometer.
- 17 e. A hygrometer or psychrometer.
- 18 f. A manometer other than a manometer prohibited from sale under par. (b).
- 19 g. A pyrometer.
- 20 h. A sphygmomanometer.

21 (i) A thermometer other than a thermometer prohibited from sale under par.

22 (a).

23 2. Subdivision 1. does not apply to the sale of a mercury-added product listed
24 in subd. 1. a. to i. if use of the product is required under federal law or if the only
25 mercury-added component in the product is a button cell battery.

1 (e) *Mercury switches and relays.* 1. No person may sell or distribute,
2 individually or as a product component, a mercury switch or mercury relay. This
3 subdivision does not apply to a switch or relay that is used to replace a switch or relay
4 that is a component in a larger product in use prior to the effective date of this
5 subdivision [revisor inserts date], if one of the following applies:

6 a. The larger product is used in manufacturing.

7 b. The switch or relay is integrated, with, and not physically separate from,
8 other components of the larger product.

9 2. Subdivision 1. does not apply to the sale of a mercury switch or mercury relay
10 if use of the switch or relay is a federal requirement.

11 **(3) EXEMPTIONS.** (a) This section does not apply to the sale of a mercury-added
12 product for which the secretary grants an exemption under this subsection.

13 (b) A manufacturer or user of a product may apply for an exemption from this
14 section by filing a written petition with the secretary. The secretary may grant an
15 exemption with or without conditions upon finding that the mercury-added product
16 is reasonable and appropriate for a specific use. The secretary shall find that a
17 product is reasonable and appropriate for a specific use only if a petitioner
18 establishes all of the following:

19 1. A system exists for the proper collection, transportation, and processing of
20 the product at the end of its life.

21 2. One of the following applies:

22 a. Use of the product provides a net benefit to the environment, public health,
23 or public safety when compared to available nonmercury alternatives.

24 b. Technically feasible nonmercury alternatives are not available at
25 comparable cost.

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2316/1ins
CTS:.....

(DATCP)

1

Insert A:

This bill regulates the sale of products to which mercury has been added during formulation and manufacture, including fever thermometers, manometers (instruments for measuring pressure), thermostats, instruments and measuring devices, and switches and relays.

Under the bill, fever thermometers containing mercury may be sold only upon a prescription, and must contain instructions for use and disposal. The bill prohibits the sale of manometers of the type in milking machines. Under the bill, manufacturers of such manometers must notify wholesalers and retailers of the prohibition and provide instructions for disposal of remaining inventory. The Department of Agriculture, Trade & Consumer Protection must establish a program for collecting such manometers in use on dairy farms. The bill also prohibits the sale of certain thermostats and other instruments and switches containing mercury.

and

DATCP
and

products

The bill authorizes a manufacturer or user of certain mercury-added ~~to petition for, and the Secretary of Agriculture, Trade & Consumer Protection to grant, an exemption from the bill's prohibitions. The Secretary may grant such an exemption only if the petitioner establishes certain facts, including that technically feasible mercury-free alternatives are not available at comparable cost.~~

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.