

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2007 SENATE BILL 346**

February 8, 2008 – Offered by COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES.

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

*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
11 another electrical circuit. “Mercury relay” includes mercury displacement relays,
12 mercury wetted reed relays, and mercury contact relays.

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

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

18 (b) *Manometers.* No person may sell or distribute a mercury–containing
19 manometer of the type in milking machines on dairy farms. Manufacturers of such
20 mercury–containing manometers shall notify wholesalers and retailers that the sale
21 or distribution of such manometers is prohibited and shall instruct them on the
22 proper disposal of remaining inventory.

23 (c) *Mercury–added thermostats.* No person may sell or distribute for
24 promotional purposes a mercury–added thermostat. For the purpose of this
25 subsection, “mercury–added thermostat” means a product or device that uses a

1 mercury switch to sense and control room temperature through communication with
2 heating, ventilating, or air-conditioning equipment. “Mercury-added thermostat”
3 includes thermostats used to sense and control room temperature in residential,
4 commercial, industrial, and other buildings, but does not include a thermostat used
5 to sense and control temperature as part of a manufacturing process.

6 (d) *Instruments and measuring devices.* 1. No person may sell or distribute any
7 of the following items, if the item contains mercury:

8 a. A barometer.

9 b. An esophageal dilator, bougie tube, or gastrointestinal tube.

10 c. A flow meter.

11 d. A hydrometer.

12 e. A hygrometer or psychrometer.

13 f. A manometer other than a manometer prohibited from sale under par. (b).

14 g. A pyrometer.

15 h. A sphygmomanometer.

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

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

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

25 a. The larger product is used in manufacturing.

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

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

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

7 (b) A manufacturer or user of a product may apply for an exemption from this
8 section by filing a written petition with the secretary. The secretary may grant an
9 exemption with or without conditions if, after consulting with the department of
10 natural resources, the secretary finds that the mercury–added product is reasonable
11 and appropriate for a specific use. The secretary shall find that a product is
12 reasonable and appropriate for a specific use only if a petitioner establishes all of the
13 following:

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

16 2. One of the following applies:

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

19 b. Technically feasible nonmercury alternatives are not available at
20 comparable cost.

21 (c) Prior to approving an exemption, the secretary may consult with
22 neighboring states to promote consistency in the regulation of mercury–added
23 products. The secretary may request a person who is granted an exemption to
24 maintain records and provide reasonable reports to the department that
25 characterize mercury use. Exemptions may not exceed 5 years and may be renewed

1 upon written application if the secretary finds that the mercury-added product
2 continues to meet the criteria specified in par. (b) and the manufacturer or other
3 persons comply with the conditions of its original approval. The department, after
4 consulting with the department of natural resources, shall promulgate rules for
5 processing exemption applications that provide public participation, taking into
6 account the role of the interstate clearinghouse.

7 **(4) INTERSTATE CLEARINGHOUSE.** The department may participate in the
8 establishment and implementation of a regional, multistate clearinghouse to assist
9 in carrying out the requirements of this section.

10 **SECTION 2. Effective date.**

11 (1) This act takes effect on the first day of the 12th month beginning after
12 publication.

13 **(END)**