

107TH CONGRESS
1ST SESSION

S. 351

To amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2001

Ms. COLLINS (for herself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mercury Reduction
5 and Disposal Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) mercury is a persistent and toxic pollutant
2 that bioaccumulates in the environment;

3 (2) according to recent studies, mercury deposi-
4 tion is a significant public health threat in many
5 States throughout the United States;

6 (3) 40 States have issued fish advisories that
7 warn certain individuals to restrict or avoid con-
8 suming mercury-contaminated fish from affected
9 bodies of water;

10 (4) according to a report by the National Acad-
11 emy of Sciences, over 60,000 children are born each
12 year in the United States at risk for adverse
13 neurodevelopmental effects due to exposure to meth-
14 yl mercury in utero;

15 (5) studies have documented that exposure to
16 elevated levels of mercury in the environment results
17 in serious harm to species of wildlife that consume
18 fish;

19 (6) combustion of municipal and other solid
20 waste is a major source of mercury emissions in the
21 United States;

22 (7) according to the Mercury Study Report,
23 prepared by the Environmental Protection Agency
24 and submitted to Congress in 1997, mercury fever

1 thermometers contribute approximately 17 tons of
 2 mercury to solid waste each year;

3 (8) the Governors of the New England States
 4 have endorsed a regional goal of “the virtual elimi-
 5 nation of the discharge of anthropogenic mercury
 6 into the environment”;

7 (9) mercury fever thermometers are easily bro-
 8 ken, creating a potential risk of dangerous exposure
 9 to mercury vapor in indoor air and risking mercury
 10 contamination of the environment; and

11 (10) according to the Environmental Protection
 12 Agency, the quantity of mercury in 1 mercury fever
 13 thermometer, approximately 1 gram, is enough to
 14 contaminate all fish in a lake with a surface area of
 15 20 acres.

16 **SEC. 3. MERCURY.**

17 (a) IN GENERAL.—Subtitle C of the Solid Waste Dis-
 18 posal Act (42 U.S.C. 6921 et seq.) is amended by adding
 19 at the end the following:

20 **“SEC. 3024. MERCURY.**

21 “(a) PROHIBITION ON SALE OF MERCURY FEVER
 22 THERMOMETERS EXCEPT BY PRESCRIPTION.—Effective
 23 beginning 180 days after the date of enactment of this
 24 section—

1 “(1) a person shall not sell or supply mercury
2 fever thermometers to consumers, except by pre-
3 scription; and

4 “(2) with each mercury fever thermometer sold
5 or supplied by prescription, the manufacturer of the
6 thermometer shall provide clear instructions on—

7 “(A) careful handling of the thermometer
8 to avoid breakage; and

9 “(B) proper cleanup of the thermometer
10 and its contents in the event of breakage.

11 “(b) THERMOMETER EXCHANGE PROGRAM.—The
12 Administrator shall make grants to States, municipalities,
13 nonprofit organizations, or other suitable entities for im-
14 plementation of a national program for the collection of
15 mercury fever thermometers from households and their ex-
16 change for thermometers that do not contain mercury.

17 “(c) DISPOSAL OF COLLECTED MERCURY WASTE.—

18 “(1) INTERAGENCY TASK FORCE.—

19 “(A) ESTABLISHMENT.—There is estab-
20 lished an advisory committee to be known as
21 the ‘Interagency Task Force on Mercury’ (re-
22 ferred to in this section as the ‘Task Force’).

23 “(B) MEMBERSHIP.—The Task Force
24 shall be composed of 7 members, of whom—

1 “(i) 1 member shall be the Adminis-
 2 trator, who shall serve as Chairperson of
 3 the Task Force;

4 “(ii) 1 member shall be appointed by
 5 each of—

6 “(I) the Secretary of State;

7 “(II) the Secretary of Defense;

8 “(III) the Secretary of Energy;

9 and

10 “(IV) the Director of the Na-
 11 tional Institute of Environmental
 12 Health Sciences of the Department of
 13 Health and Human Services;

14 “(iii) 1 member shall be appointed by
 15 the President to represent the American
 16 Public Health Association; and

17 “(iv) 1 member shall be appointed by
 18 the President from the Environmental
 19 Council of the States.

20 “(C) DATE OF APPOINTMENTS.—The ap-
 21 pointment of a member of the Task Force shall
 22 be made not later than 30 days after the date
 23 of enactment of this section.

24 “(D) TERM; VACANCIES.—

1 “(i) TERM.—A member shall be ap-
 2 pointed for the life of the Task Force.

3 “(ii) VACANCIES.—A vacancy on the
 4 Task Force—

5 “(I) shall not affect the powers of
 6 the Task Force; and

7 “(II) shall be filled in the same
 8 manner as the original appointment
 9 was made.

10 “(E) MEETINGS.—

11 “(i) INITIAL MEETING.—Not later
 12 than 30 days after the date on which all
 13 members of the Task Force have been ap-
 14 pointed, the Task Force shall hold the ini-
 15 tial meeting of the Task Force.

16 “(ii) CALLING OF MEETINGS.—The
 17 Task Force shall meet at the call of the
 18 Chairperson.

19 “(iii) QUORUM.—A majority of the
 20 members of the Task Force shall con-
 21 stitute a quorum, but a lesser number of
 22 members may hold hearings.

23 “(F) DUTIES.—Not later than 1 year after
 24 the date of the initial meeting of the Task
 25 Force, the Task Force shall submit to Congress

1 a report containing recommendations
2 concerning—

3 “(i) the long-term management and
4 retirement of mercury collected from—

5 “(I) mercury fever thermometers;

6 “(II) other medical and commer-
7 cial sources; and

8 “(III) government sources, in-
9 cluding mercury stored by the Depart-
10 ment of Defense and the Department
11 of Energy;

12 “(ii) collection of mercury from indus-
13 trial or other sources in the United States
14 in cases in which the mercury is no longer
15 needed, such as from retired chlor-alkali
16 plants;

17 “(iii) programs to test the long-term
18 durability of promising technologies for se-
19 questration of mercury that has been re-
20 tired from use;

21 “(iv) storage of mercury collected or
22 sequestered under clause (i), (ii), or (iii) in
23 a manner that ensures that there is no re-
24 lease of the mercury into the environment;

1 “(v) reduction of the total threat
 2 posed by mercury to humans and the envi-
 3 ronment; and

4 “(vi) reduction of the total quantity of
 5 mercury produced, used, and released on a
 6 global basis, including whether and how—

7 “(I) the quantity of virgin mer-
 8 cury mined from the ground and
 9 placed in circulation each year can be
 10 reduced through bilateral or inter-
 11 national agreements or other means;

12 “(II) the quantity of mercury
 13 used in products and manufacturing
 14 can be reduced through substitution
 15 of mercury-free alternatives that are
 16 safer, available, and affordable; and

17 “(III) essential mercury needs
 18 can be met through use of stockpiles
 19 in existence on the date of enactment
 20 of this section and increased recycling
 21 rather than through use of virgin
 22 mercury.

23 “(G) HEARINGS.—The Task Force may
 24 hold such hearings, sit and act at such times
 25 and places, take such testimony, and receive

1 such evidence as the Task Force considers ad-
 2 visable to carry out this section.

3 “(H) INFORMATION FROM FEDERAL AGEN-
 4 CIES.—

5 “(i) IN GENERAL.—The Task Force
 6 may secure directly from a Federal agency
 7 such information as the Task Force con-
 8 siders necessary to carry out this section.

9 “(ii) PROVISION OF INFORMATION.—
 10 On request of the Chairperson of the Task
 11 Force, the head of the agency shall provide
 12 the information to the Task Force.

13 “(I) POSTAL SERVICES.—The Task Force
 14 may use the United States mails in the same
 15 manner and under the same conditions as other
 16 agencies of the Federal Government.

17 “(J) GIFTS.—The Task Force may accept,
 18 use, and dispose of gifts or donations of serv-
 19 ices or property.

20 “(K) COMPENSATION OF MEMBERS; TRAV-
 21 EL EXPENSES.—

22 “(i) NON-FEDERAL EMPLOYEES.—A
 23 member of the Task Force who is not an
 24 officer or employee of the Federal Govern-
 25 ment shall be compensated at a rate equal

1 to the daily equivalent of the annual rate
2 of basic pay prescribed for level IV of the
3 Executive Schedule under section 5315 of
4 title 5, United States Code, for each day
5 (including travel time) during which the
6 member is engaged in the performance of
7 the duties of the Task Force.

8 “(ii) FEDERAL EMPLOYEES.—A mem-
9 ber of the Task Force who is an officer or
10 employee of the Federal Government shall
11 serve without compensation in addition to
12 the compensation received for the services
13 of the member as an officer or employee of
14 the Federal Government.

15 “(iii) TRAVEL EXPENSES.—A member
16 of the Task Force shall be allowed travel
17 expenses, including per diem in lieu of sub-
18 sistence, at rates authorized for an em-
19 ployee of an agency under subchapter I of
20 chapter 57 of title 5, United States Code,
21 while away from the home or regular place
22 of business of the member in the perform-
23 ance of the duties of the Task Force.

24 “(L) STAFF AND FUNDING.—

1 “(i) DETERMINATION.—The Chair-
2 person of the Task Force shall determine
3 the level of staff and funding that are ade-
4 quate to carry out the activities of the
5 Task Force.

6 “(ii) SOURCE.—The staff and funding
7 shall be provided by and drawn equally
8 from the resources of—

9 “(I) the Department of Energy;

10 “(II) the Department of Defense;

11 and

12 “(III) the Environmental Protec-
13 tion Agency.

14 “(iii) APPOINTMENT OF STAFF.—The
15 Chairperson may, without regard to the
16 civil service laws (including regulations),
17 appoint and terminate such staff as are
18 necessary to enable the Task Force to per-
19 form the duties of the Task Force.

20 “(iv) COMPENSATION.—

21 “(I) IN GENERAL.—Except as
22 provided in subclause (II), the Chair-
23 person may fix the compensation of
24 the staff of the Task Force that are
25 not officers or employees of the Fed-

1 eral Government without regard to
 2 the provisions of chapter 51 and sub-
 3 chapter III of chapter 53 of title 5,
 4 United States Code, relating to classi-
 5 fication of positions and General
 6 Schedule pay rates.

7 “(II) MAXIMUM RATE OF PAY.—

8 The rate of pay for the staff shall not
 9 exceed the rate payable for level V of
 10 the Executive Schedule under section
 11 5316 of title 5, United States Code.

12 “(v) DETAIL OF FEDERAL GOVERN-
 13 MENT EMPLOYEES.—

14 “(I) IN GENERAL.—An employee
 15 of the Federal Government may be
 16 detailed to the Task Force without re-
 17 imbursement.

18 “(II) CIVIL SERVICE STATUS.—

19 The detail of the employee shall be
 20 without interruption or loss of civil
 21 service status or privilege.

22 “(vi) PROCUREMENT OF TEMPORARY
 23 AND INTERMITTENT SERVICES.—The
 24 Chairperson of the Task Force may pro-
 25 cure for the purposes of the Task Force

1 temporary and intermittent services in ac-
2 cordance with section 3109(b) of title 5,
3 United States Code, at rates for individ-
4 uals that do not exceed the daily equivalent
5 of the annual rate of basic pay prescribed
6 for level V of the Executive Schedule under
7 section 5316 of that title.

8 “(M) TERMINATION OF TASK FORCE.—

9 The Task Force shall terminate on the date
10 that is 90 days after the date on which the
11 Task Force submits the report required under
12 subparagraph (F).

13 “(2) RESPONSIBILITY OF THE ADMINISTRATOR

14 FOR SAFE DISPOSAL AND STORAGE OF MERCURY.—

15 In consultation with the Task Force, the Adminis-
16 trator shall—

17 “(A)(i) take title to the mercury collected
18 under the thermometer exchange program es-
19 tablished under subsection (b), or an equivalent
20 quantity of mercury; and

21 “(ii) manage (or designate a contractor to
22 manage) the mercury collected in a manner
23 that ensures that the mercury collected is not
24 released into the environment or reintroduced
25 into commerce; and

1 “(B)(i) identify potential mercury stabiliza-
2 tion technologies and measures that ensure
3 minimal release of mercury into the environ-
4 ment; and

5 “(ii) conduct such research, development,
6 and demonstration of the technologies and
7 measures as the Administrator determines to be
8 appropriate.

9 “(d) RELATION TO OTHER LAW.—Nothing in this
10 section—

11 “(1) precludes any State from imposing any ad-
12 ditional requirement; or

13 “(2) diminishes any obligation, liability, or
14 other responsibility under other Federal law.

15 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
16 is authorized to be appropriated to carry out this section
17 \$20,000,000, of which—

18 “(1) not more than 2.5 percent shall be used to
19 carry out the activities of the Task Force; and

20 “(2) not more than 2.5 percent shall be used to
21 carry out subsection (c)(2)(B).”.

22 “(b) CONFORMING AMENDMENT.—Section 1001 of the
23 Solid Waste Disposal Act (42 U.S.C. prec. 6901) is

- 1 amended by adding at the end of the items relating to
- 2 subtitle C the following:

“Sec. 3024. Mercury.”.

○