

109TH CONGRESS  
1ST SESSION

# H. R. 2391

To provide for the reduction of mercury in the environment.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2005

Ms. BALDWIN (for herself, Mr. BURTON of Indiana, Mr. PAYNE, Mr. STARK, Ms. LEE, Mr. McDERMOTT, Mr. MENENDEZ, Mr. OWENS, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mr. GRIJALVA, Mr. SANDERS, Mr. HASTINGS of Florida, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To provide for the reduction of mercury in the environment.

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 “Safe Communities and  
5       Safe Schools Mercury Reduction Act of 2005”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

8               (1) Mercury is a naturally occurring element  
9       and bioaccumulative toxin that is easily absorbed

1 through skin and respiratory and gastrointestinal  
2 tissues.

3 (2) Although mercury is naturally occurring,  
4 studies have shown that its concentration has in-  
5 creased dramatically over the past 150 to 200 years  
6 due to mining and industrial activities.

7 (3) Common sources of mercury released into  
8 the environment include breakage of mercury-con-  
9 taining products like fluorescent bulbs and thermom-  
10 eters, the manufacturing of mercury-containing  
11 products, and incineration of mercury-containing  
12 products.

13 (4) According to recent studies, mercury depos-  
14 its are a significant public health threat in many  
15 States throughout the United States.

16 (5) Fetuses, infants, and young children are at  
17 the greatest risk from chronic low level mercury ex-  
18 posure.

19 (6) A study by the Centers for Disease Control  
20 and Prevention found that approximately 8 percent  
21 of women of childbearing age in the United States  
22 had mercury levels exceeding the level considered  
23 safe by the Environmental Protection Agency for  
24 protecting the fetus. This translates into approxi-  
25 mately 60,000 babies born each year in the United

1 States at risk of developmental harm due to mercury  
2 exposure in the womb.

3 (7) A study published in the Journal of Obstet-  
4 rics and Gynecology found that elevated mercury ex-  
5 posures associated with seafood could be linked to  
6 an increased risk of infertility in both men and  
7 women.

8 (8) Mercury pollution is widespread. As of early  
9 2003, 43 States had issued mercury fish consump-  
10 tion advisories for one or more freshwater or marine  
11 fish.

12 (9) Mercury is the most common pollutant trig-  
13 gering fish consumption advisories in the United  
14 States. The number of mercury advisories has in-  
15 creased 138 percent from 1994 to 2002. In 2002,  
16 mercury advisories covered 12,000,000 lake acres  
17 and 470,000 river miles.

18 (10) According to the Mercury Study Report,  
19 prepared by the Environmental Protection Agency  
20 and submitted to Congress in 1997, mercury fever  
21 thermometers contribute approximately 17 tons of  
22 mercury to solid waste each year.

23 (11) Numerous mercury spills have been docu-  
24 mented in schools, often causing thousands of dol-  
25 lars to clean up. A mercury spill in Washington,

1 D.C., in September of 2003 cost over \$1,000,000 to  
2 clean up and resulted in a temporary school closure  
3 of several weeks.

4 (12) Mercury-containing thermostats generally  
5 contain 3 grams of mercury, which is enough mer-  
6 cury to poison a 60 acre lake for one year.

7 (13) Automobile scrapping is the fourth largest  
8 source of mercury pollution nationwide, behind waste  
9 incineration, coal-fired power plants, and commercial  
10 and industrial boilers. It is estimated that about  
11 20,000 pounds of automotive mercury are released  
12 each year in the United States.

13 **SEC. 3. GRANT PROGRAM.**

14 (a) ESTABLISHMENT.—The Administrator of the En-  
15 vironmental Protection Agency (in this Act referred to as  
16 the “Administrator”) shall establish a program for making  
17 renewable grants to governmental and nonprofit agencies  
18 and organizations, and to for-profit entities, for projects  
19 to—

20 (1) reduce harmful free-flowing elemental mer-  
21 cury and mercury-added products from the environ-  
22 ment;

23 (2) safely dispose of or recycle harmful mer-  
24 cury;

1           (3) educate communities and citizens about the  
2       harmful effects of mercury;

3           (4) develop and carry out a plan, in accordance  
4       with guidance provided by the Administrator under  
5       section 5, on how to eliminate free flowing mercury  
6       and instruments containing mercury from the prem-  
7       ises of K–12 public and private schools;

8           (5) carry out a mercury thermometer exchange  
9       program; or

10          (6) facilitate the recovery and safe disposal and  
11       management of mercury-added components from  
12       automobiles.

13       (b) PROCEDURES AND SELECTION CRITERIA.—The  
14       Administrator shall establish procedures for the selection  
15       of grant recipients under this section, including require-  
16       ments that appropriate records and information be made  
17       available to the Administrator as necessary to ensure that  
18       grant funds are used for the purposes for which they are  
19       provided. Criteria for selection shall include—

20           (1) strengths and weaknesses of the project;

21           (2) adequacy of overall project design;

22           (3) competency of proposed staff;

23           (4) suitability of applicant’s available resources;

24           (5) appropriateness of the proposed project du-  
25       ration and budget; and

1           (6) probability that the project will accomplish  
2       stated objectives.

3       (c) RECYCLING PROGRAMS.—Funds provided  
4 through a grant provided under this section may be used  
5 for a recycling program only if more than 50 percent of  
6 the total material recycled under the program is mercury.

7       (d) AUTOMOBILE COMPONENTS.—The Administrator  
8 shall encourage States to develop programs that facilitate  
9 the recovery and safe disposal and management of mer-  
10 cury-added component parts from automobiles. These pro-  
11 grams should target the removal of mercury-added compo-  
12 nents when they are being replaced or removed from  
13 scrapped vehicles.

14       (e) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated to the Administrator for  
16 carrying out this section \$75,000,000 for each of the fiscal  
17 years 2006 through 2009.

18 **SEC. 4. SALE OF THERMOMETERS; THERMOSTAT REPLACE-**  
19 **MENT AND RECYCLING.**

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

23 **“SEC. 3024. MERCURY.**

24       “(a) SALE OF THERMOMETERS.—Effective beginning  
25 180 days after the date of enactment of this section—

1           “(1) a person shall not sell or supply a mercury  
2       fever thermometer to a consumer, 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) THERMOSTAT REPLACEMENT.—Effective begin-  
12      ning 2 years after the date of enactment of this section—

13           “(1) a contractor who replaces a building ther-  
14      mostat in a residential or commercial building shall  
15      dispose of the replaced thermostat through a recy-  
16      cling program established or participated in under  
17      paragraph (2); and

18           “(2) each manufacturer of building thermostats  
19      for installation in a residential or commercial build-  
20      ing shall—

21                   “(A) establish or participate in a program  
22      for the safe and environmentally responsible re-  
23      cycling of thermostats replaced by the manufac-  
24      turer’s thermostats; and

1           “(B) establish or participate in a program  
 2           to clearly educate individuals who sell or install  
 3           the manufacturer’s thermostats about the pro-  
 4           gram established under subparagraph (A).”.

5           (b) CONFORMING AMENDMENT.—Section 1001 of the  
 6 Solid Waste Disposal Act (42 U.S.C. prec. 6901) is  
 7 amended by adding at the end of the items relating to  
 8 subtitle C the following:

“Sec. 3024. Mercury.”.

9   **SEC. 5. SCHOOL PREMISES GUIDANCE.**

10       Not later than 1 year after the date of enactment  
 11 of this Act, the Administrator shall publish guidance to  
 12 assist State and local governments to remove elemental  
 13 free-flowing mercury and mercury-added instruments  
 14 from the premises of public and private schools. Thermo-  
 15 stats, computers, and motorized vehicles shall not be con-  
 16 sidered instruments for the purposes of this section.

17   **SEC. 6. ANNUAL REPORT.**

18       Not later than 1 year after the date of enactment  
 19 of this Act, and annually thereafter, the Administrator,  
 20 after obtaining necessary information from appropriate  
 21 State agencies, shall transmit to the Congress a report on  
 22 the progress made under this Act. Such report shall in-  
 23 clude—

24           (1) an executive summary;



1           (2) a brief description of the background of this  
2     Act;

3           (3) a State-by-State progress summary of mer-  
4     cury reduction efforts relating to this Act, including  
5     a quantitative analysis of the amount of mercury  
6     eliminated, recycled, or disposed of in each State,  
7     and an identification of the method or program re-  
8     sponsible;

9           (4) a description of grants and amounts award-  
10    ed under section 3, and of the criteria used for  
11    awarding those grants;

12          (5) a summary of a few selected mercury reduc-  
13    tion programs that received grants, with a descrip-  
14    tion of the success or problems each program had;

15          (6) a detailed financial reporting of total ad-  
16    ministration costs of carrying out this Act;

17          (7) a joint summary, by the Administrator and  
18    appropriate State officials, that describes the coordi-  
19    nation and communication progress and problems  
20    between the Federal and State Governments in car-  
21    rying out this Act; and

22          (8) recommendations for greater efficiency or  
23    improvement of administration of this Act.

1 **SEC. 7. MERCURY AMALGAM REDUCTION.**

2 (a) IN GENERAL.—Not later than 3 years after the  
3 date of enactment of this Act, the Administrator shall  
4 issue guidelines that specify requirements for dentists to  
5 capture 90 percent or more of mercury-laden amalgam  
6 when administering amalgam to, or recovering amalgam  
7 from, their patients.

8 (b) CONSIDERATIONS.—The guidelines described in  
9 subsection (a) shall take into account—

10 (1) Federal, State, and local mercury-laden  
11 amalgam programs in existence;

12 (2) current use of mercury-laden amalgam by  
13 dentists;

14 (3) current waste management practices used  
15 by dental offices and their mercury-laden amalgam  
16 capture rates;

17 (4) the number of technologies that capture  
18 mercury-laden amalgam, and their availability, cap-  
19 ture rates, and affordability;

20 (5) the economic costs to dental offices in meet-  
21 ing the 90 percent capture requirements;

22 (6) structural designs of office buildings that  
23 may restrict technologies that can be used to capture  
24 mercury-laden amalgam;

1           (7) implementing a process in which dental of-  
2       fices can request an exemption waiver from meeting  
3       these requirements;

4           (8) geographic areas where the bioaccumulation  
5       of mercury-laden amalgam is more likely; and

6           (9) lack of recycling or waste management pro-  
7       grams or infrastructure that supports the safe re-  
8       moval and management of mercury-laden amalgam  
9       within reasonable proximities to dental offices.

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