



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 44
[2009 Senate Bill 200]

**Prohibition on the Sale of Certain
Items Containing Mercury**

Act 44 regulates the sale of certain products to which mercury has been added during formulation and manufacture, including fever thermometers, manometers, thermostats, instruments and measuring devices, switches and relays, and household items.

Items Which May Not Be Sold, Exceptions

- **Mercury fever thermometers.** Under the Act, a mercury fever thermometer may only be sold pursuant to a prescription and the manufacturer must provide, with each thermometer, instructions for use and disposal and cleanup if the thermometer breaks.
- **Mercury-containing manometers of the type used in milking machines on dairy farms.** Manufacturers of these manometers must notify wholesalers and retailers that the sale or distribution of these manometers is prohibited and must instruct them on the proper disposal of remaining inventory.
- **Mercury-added thermostats.**
- **The following instruments and measuring devices containing mercury:** (Note: These items may be sold if the product is required under federal law or if the only mercury-added component in the product is a button cell battery.)
 - A barometer.
 - An esophageal dilator, bougie tube, or gastrointestinal tube.
 - A flowmeter.
 - A hydrometer.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

- A hygrometer or psychrometer.
- A manometer other than a manometer prohibited from sale under par. (b).
- A pyrometer.
- A sphygmomanometer.
- A thermometer other than a thermometer prohibited from sale under par. (a).
- **Mercury switches and relays.** The Act contains exemptions for a switch or relay that is used to replace a switch or relay that is a component in a larger product already in use or that is required to be used under federal law.
- **Household items.** No person may sell or distribute any of the following items if the item contains mercury, unless the only mercury-added component in the item is a button cell battery:
 - A toy or game.
 - Jewelry.
 - Clothing or shoes.
 - An over-the-counter pharmaceutical product for human use.
 - A cosmetic, toiletry, or fragrance product.

Exemptions

A manufacturer or user of a product may petition the Department of Natural Resources (DNR) for an exemption from the Act's prohibitions. DNR may grant an exemption only if a system exists for the proper collection, transportation, and processing of the product at the end of its life, and one of the following applies:

1. Use of the product provides a net benefit to the environment, public health, or public safety when compared to available non-mercury alternatives; or
2. Technically feasible non-mercury alternatives are not available at comparable cost.

Provisions Pertaining to Schools

Purchase and Use of Mercury and Related Items

The Act prohibits a public, private, or charter school from knowingly purchasing or using free-flowing elemental mercury for any purpose, or, with certain exceptions, from knowingly purchasing or using a mercury-containing compound or an instrument or measuring device containing mercury.

Storage of Mercury and Related Items

Beginning January 1, 2012, no public, private, or charter school may knowingly store free-flowing elemental mercury or, with certain exceptions, store a mercury-containing compound or an instrument or measuring device containing mercury.

Effective date: October 1, 2010.

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