

- (a) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and the food chain
- (b) Incineration of medical and municipal waste, which contains whole or broken thermometers, is a major source of atmospheric deposition of mercury in the Northeast resulting in mercury contamination of air and water.
- (c) Mercury from mercury thermometers can also directly enter the environment through vaporization and/or spillage when a thermometer breaks during use, transportation or disposal. The United States Environmental Protection Agency (US EPA) estimated that for the year 2000, 17 tons of elemental mercury from thermometers will be disposed of as municipal solid waste - this does not include additional mercury that finds its way into the medical waste stream.
- (d) Accidental mercury spills, breakages, and releases have occurred at schools throughout the Northeast. In addition to the threat of health risks to students and staff and potential for adverse environment impact, these discharges are costly. Harvard University has sited that it costs \$110 to properly clean up a single thermometer breakage in a laboratory. If the mercury is accidentally spread through tracking, HVAC or cleaning, costs rapidly escalate. This does not reflect the cost to replace contaminated items and in some cases it can reach into multiple thousands of dollars. These incidences have proven costly to clean up and have exposed students, teachers and/or administrators to mercury emissions.
- (e) Due to the bioaccumulation of mercury in fish, the Massachusetts Department of Public Health has issued a statewide native fresh water fish advisory, warning pregnant women, women of childbearing age and children not to consume any fish.
- (f) Pharmacy chains of Rite-Aid, K-Mart, Brooks, Target, Wal-Mart, Albertson, Kinney, Toys 'R' Us, Safety First, The First Years and Meijers amongst others have joined a Mercury Free Thermometer campaign, pledging to discontinue the sale of mercury basal and fever thermometers.
- (g) There are accurate and safe alternatives to mercury thermometers that are readily available and comparable in cost.
- (h) Local take back programs have already demonstrated the ease and effectiveness of removing mercury products. The town of Burlington, MA successfully collected more than 1425 mercury thermometers. Unexpectedly, Burlington's program also received over 60 pounds of raw elemental mercury. Oakland County in Michigan is also rounding up mercury thermometers to get the toxic metal out of medicine cabinets. Beth Israel Deaconess Medical Center, New England Medical Center, and Dana Farber Cancer Institute and Newton-Wellesley Medical Center are among many hospitals and clinics that have participated in mercury thermometers 'round-ups' and have taken a pledge to virtually eliminate mercury waste from the health care waste stream by 2003.
- (i) In 1998 the American Poison Control Center received 18,000 phone calls regarding broken mercury thermometers. The average cost of handling each call was \$30, plus the added cost to the caller of cleaning up the mercury spill.
- (j) In the state of New Hampshire, a person shall not sell or supply mercury fever thermometers to consumers and patients, except by prescription. The county of San Francisco; the city of Duluth, Minnesota; the city of Ann Arbor, Michigan and Dane County Wisconsin are among many government bodies that have already passed legislation to ban the sale of mercury thermometers.
- (k) The New England States and Eastern Canadian Provinces are implementing a bi-national mercury plan, which was unanimously adopted in June of 1998 by the Conference of New England Governors and Eastern Canadian Premiers (and signed by Governor Cellucci in June 1998). The mercury action plan is an ambitious program to virtually eliminate the emissions of mercury in the region. The regional goal of this action plan supports the virtual elimination of anthropogenic mercury. The plan consistent with the prohibition of mercury thermometer sales.

- (l) The "Massachusetts Zero Mercury Strategy", formed by Environmental Affairs Secretary, Robert Durand, adopted in the summer of 2000 an ambitious strategy that calls for virtual elimination of the use and discharge of mercury including mercury thermometers.
- (m) The American Hospital Association (AHA) - US Environmental Protection Agency (EPA) memorandum of Understanding calls for "virtual elimination" of mercury from healthcare facilities. Over 500 hospitals and clinics across the country have already taken a pledge to remove mercury thermometers and replace them with safe alternatives.
- (n) The New England states are in the process of individually introducing model mercury legislation that would severely restrict the sale of mercury fever thermometers.

Section 2. The Municipal Code of the City of Boston is amended as follows:

Section 2.1. Definitions.

- A. City means the City of Boston.
- B. Mercury thermometer means a mercury-containing product that is used to measure body temperature. A mercury-containing product is a product, device, instrument or equipment into which elemental mercury or mercury compounds are intentionally added during its formulation or manufacture and in which the continued presence of mercury is desired to provide a specific characteristic or to permit a specific function.
- C. Health care facility means any hospital, nursing home, extended care facility, long-term facility, clinic or medical laboratory, state or private health or mental institution, clinic, physician's office or health maintenance organization.
- D. Manufacturer means any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produces a mercury fever thermometer. If the mercury thermometer is produced in a foreign county, the manufacturer is the importer or domestic distributor.

Section 2.2. Retail Sale Prohibited. A person shall not sell or supply (including online retail) mercury fever thermometers to consumers and patients, except by prescription. The manufacturers of mercury fever thermometers shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever thermometers sold through prescriptions.

Section 2.3. Manufacturing Prohibited. It shall be unlawful for any person to manufacture a mercury thermometer in the City.

Section 2.4. Importation Prohibited. It shall be unlawful for any facility to import, purchase, or distribute a mercury thermometer in the City, except in the case of medical necessity as determined by a licensed physician.

Section 2.5. Restriction on the Sale of Mercury Thermometers. Six months after the adoption of this ordinance, a person may not sell or supply mercury fever thermometers to consumers and patients.

Section 2.6. Penalty. Any person who violates this ordinance shall be subject to a fine of not more than seven hundred dollars (\$700.00) per unit sold. The Public Health Commission shall have jurisdiction over outreach and enforcement of this ordinance.