

HOUSE No. 2198

The Commonwealth of Massachusetts

PETITION OF:

J. James Marzilli, Jr.

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE USE OF MERCURY BY DENTISTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 21A of the General Laws is hereby amended by adding the following section:-

Section 21. The use of advanced filtration technology, ISO 11143 certified amalgam separators must be installed, used and maintained at each dental office in Massachusetts that places, replaces, or removes amalgam fillings. As well as requirements that the separators are properly installed and maintained (per manufacturers specifications), and that the captured wastes are recycled by certified or licensed entities.

The department of environmental protection shall be responsible to ensure that all dental clinics placing or removing amalgam fillings fully comply with all the provisions of this legislation, including but not limited to the issuance of fines for non-compliance with the regulations.

A dentist shall post notice in their dental clinics and present patients having dental restorative procedures with a standardized pamphlet developed by the department of public health regarding the risks and benefits of dental materials, including mercury amalgam, and shall discuss with the patient the choices of using non-mercury restorative dental materials prior to use.

The department of public health shall provide information about the risks and benefits of dental restorative materials including information discouraging the use of amalgams in sensitive populations, including but not limited to pregnant women and children under the age of 12.

No persons shall dispose of elemental mercury or dental mercury capsules, particles or dissolved matter other than by recycling, except where

otherwise approved, with cause, by the department of environmental protection. Elemental mercury or dental mercury particles or dissolved matter may not be disposed in municipal solid waste, as a biomedical waste (except in cases where there is a potential presence of bacteria and/or pathogens) or as a hazardous waste (provided that the material is not destined for incineration or autoclave) or discharged in water, wastewater, wastewater treatment or septic systems. Dental offices are also required to limit their mercury discharges, whether to publicly owned treatment works or to septic systems, to less than 0.01 mg/L.

No person may sell or provide elemental mercury or preencapsulated mercury for sale to another person or transport out of state for sale, except for recycling without providing a material safety data sheet as defined in United States code, title 42, section 11049 and requiring the purchaser or recipient to sign a statement that the purchaser: (i) will use the mercury only for medical, dental amalgam, research or manufacturing purposes; (ii) understand that the mercury is toxic and that the purchaser will store and use it appropriately so that no person is exposed to the mercury; and (iii) will not place or allow anyone under the purchaser's control to place or cause to be placed the mercury in solid waste or in a wastewater or in a wastewater treatment and disposal system.

The department of environmental protection shall establish rules for dental offices relative to: (1) adherence to best management practices; (2) the use of chairside traps to capture and collect mercury; (3) the use of advanced filtration technology, ISO 11143 certified amalgam separators, which must be properly installed to manufacturers' specifications, used and maintained at each dental office in Massachusetts that places, replaces, or removes amalgam fillings, to trap and recycle 99 percent of both the amalgam particles and dissolved mercury; (4) cleaning and replacing mercury laden pipes and plumbing fixtures; (5) enforcement and routing monitoring to assure amalgam separators are installed properly and are maintained to assure they are operating properly and (6) managing surplus quantities of dental or elemental mercury properly.

The department of environmental protection shall be responsible for conducting or overseeing a study to determine the environmental impacts and potential liability implications of dental mercury released into wastewater systems (e.g. rural septic systems) where municipal wastewater treatment facilities or other treatment facilities are not available.

State dental insurance contracts negotiated after that time shall provide equal coverage for non-mercury fillings at no additional expense to the state employee. Vocational dental education or training schools shall be required to develop and implement a plan approved by the environmental commissioner that best management practices are used to prevent discharge or mercury into the environment, and to provide for an educational program for dental students regarding the hazards of mercury and requirements to properly manage, trap and collect all waste dental mercury for recycling.

All dentists shall be required to submit to the department an annual report describing quantities of amalgam quantities purchased and used and recycled from the following two sources; dry sources (chairside traps, clean scrap and elemental mercury) and wet sources (amalgam sludge and vacuum pump traps).

In conjunction with the Massachusetts Dental Society, the department of environmental protection shall coordinate the development of a public education, outreach and assistance program to dentists throughout the state to discourage the environmental release and use of dental mercury wherever feasible. And, to encourage best management practices and the installation of amalgam separation units.

SECTION 2. This act shall take effect as of July 1, 2007.