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An Act To Limit Mercury Exposure

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, mercury amalgam fillings are unsafe for humans and the environment; and

Whereas, it is imperative that the use of mercury amalgam fillings be stopped as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1667-A is enacted to read:

§ 1667-A. Transition to mercury-free dentistry

1. Filling material; consumer choice. By July 1, 2008, all state and local government dental plans, Medicaid and private-sector dental plans must provide consumer choice in filling materials. If the costs of different kinds of fillings are different, the 3rd-party payor may limit coverage to the cost of the lowest-priced filling. The patient is allowed to have a higher-priced filling and pay the difference.

2. Dental schools. Beginning in January 2008, schools that offer training in dentistry, including dental hygiene and dental assisting, shall teach the risks of exposure to mercury in dental offices and dental laboratories.

3. Immunity from liability. Dentists and dental offices as defined in section 1667, subsection 2 have immunity from liability as a result of any mercury fillings placed in patients' teeth through June 30, 2008 if the dentists give to patients, as required by law, the disclosure statement, "Fillings: The Choice You Have: Mercury Amalgam and Other Filling Materials," published by the Department of Health and Human Services, Maine Center for Disease Control and Prevention. This immunity does not exist with respect to any mercury amalgam placed in patients' teeth after June 30, 2008.

4. Prohibited. After January 1, 2009, a dentist or a dental office in the State may not place a mercury filling in a tooth of a child who has not reached 6 years of age or in a tooth of a pregnant woman. After January 1, 2010, a dentist or a dental office in the State may not place mercury fillings in patients' teeth.

5. Education. The department shall coordinate the development of an education, outreach and assistance program for dentists to discourage the environmental release and use of dental mercury.

6. Annual report. Each dentist and dental office in the State shall submit an annual report to the department describing the quantities of mercury amalgam purchased, used and recycled from dry sources and wet sources.

7. Rules. The department shall establish rules for dental offices to limit mercury releases relative to:

- A. Adherence to best management practices;
- B. The use of chairside traps to capture and collect mercury;
- C. The use of advanced filtration technology;
- D. The recycling of used dental mercury amalgam capsules generated from a dental facility;
- E. Cleaning and replacing mercury-laden pipes and plumbing fixtures;
- F. Enforcement of the routine monitoring of amalgam separator systems, pursuant to section 1667, subsection 3; and
- G. Managing surplus quantities of dental or elemental mercury properly.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

8. Enforcement. The department is responsible for ensuring that all dental clinics that place or remove mercury amalgam fillings comply with all the provisions of this section.

9. Penalty. A person who violates this section or rules adopted pursuant to this section commits a civil violation for which a fine of not less than \$10,000 nor more than \$100,000 may be adjudged.

This section does not apply to manufacturers of mercury amalgam or national or state dental associations.

Sec. 2. Septic system study. The Department of Environmental Protection shall conduct and oversee a study to determine the environmental impact of dental mercury released in rural septic systems.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill requires the elimination of mercury in dental offices over a 3-year period. The bill also requires dental schools to include in their curricula by January 2008 the risks of exposure to mercury.

The bill also requires a dental office to post in the office the disclosure statement published by the Department of Health and Human Services, Bureau of Health on the risks of having mercury fillings.

The bill also requires the Department of Environmental Protection to develop an education, outreach and assistance program for dentists. The bill requires dentists to file an annual report with the department describing the quantities of mercury amalgam purchased, used and recycled from dry sources and wet sources.

The bill requires the Department of Environmental Protection to establish rules for dental offices to limit mercury releases.

The bill establishes a penalty in the amount of not less than \$10,000 nor more than \$100,000 for a violation.

The bill also requires the Department of Environmental Protection to conduct a septic system study concerning the impact of dental mercury releases in rural areas.