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February 5, 2010

Representative Jan Malik
Chairman, House Committee on Environment
& Natural Resources
Rhode Island House of Representatives
State House, Room 323
81 Smith Street
Providence, RI 02903-1122

RE: Support for House Bill 7199, AN ACT RELATING TO HEALTH AND SAFETY - MERCURY REDUCTION AND EDUCATION ACT.

Dear Representative Malik:

The Product Stewardship Institute, Inc. (PSI) submits this testimony in support of H 7199, which provides a viable solution to the problem of mercury releases from thermostat disposal.

PSI is a national non-profit organization with membership from 45 state governments, over 100 local governments, and more than 50 businesses, organizations, and universities dedicated to reducing the health and environmental impacts from consumer products. PSI's mission is to pursue initiatives to ensure that all those involved in the lifecycle of a product share responsibility for reducing its health and environmental impacts, with producers bearing primary financial responsibility.

Over the past five years, our organization has worked with thermostat manufacturers, retailers, government agencies, heating and cooling contractors and wholesalers, and environmental groups to increase the collection and recycling of mercury thermostats. Our work on this issue is our website at: www.productstewardship.us/Thermostats.

PSI supports H 7199 because it will substantially strengthen the current voluntary system for mercury thermostat collection and recycling. That system, in place since 1998, is not working. In 2008, the Thermostat Recycling Corporation (TRC) – the organization funded by thermostat manufacturers to recycle mercury thermostats – collected just 370 mercury thermostats in Rhode Island. That number represents just a tiny fraction of the number available for collection.

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H 7199 places primary responsibility for mercury thermostat collection and recycling where it belongs: on thermostat manufacturers. It establishes a manufacturer-financed system for mercury thermostat education, collection, and recycling, and requires that manufacturers meet performance goals set by the RI Department of Environmental Management (RI DEM). It also provides an incentive to boost collections if manufacturers fall short. These provisions are consistent with model mercury thermostat legislation that PSI developed in 2007, and that seven states have passed into law.

PSI's model shares responsibility for safe thermostat recycling among all stakeholders and provides a menu of options from which states can choose. While thermostat manufacturers have the most responsibility to reduce the toxicity of their products and remove them from the waste stream, other stakeholders, including contractors, wholesalers, retailers, and consumers, have key roles in thermostat collection and recycling. PSI developed its model with representatives of thermostat manufacturers, retailers, government agencies, heating and cooling contractors and wholesalers, and environmental groups. Unfortunately, after these representatives reached consensus, the thermostat manufacturers pulled out of the agreement.

Two provisions of H 7199 stand out as particularly important. First, manufacturers must meet performance goals set by RI DEM based on a collection rate. Second, if they fail to do so, they must offer a financial incentive to anyone who returns a mercury-containing thermostat for recycling. These two provisions are essential components of an effective mercury products stewardship program.

Collection rates. A collection rate is the number of thermostats collected compared to the number available for collection. A collection rate places the number of thermostats collected *into context*. Without performance goals based on collection rates, it is impossible to know whether a program is capturing sufficient quantities of mercury thermostats to reduce risks to acceptable levels. Recent experience in California demonstrates the value of a collection rate in shining a spotlight on program deficiencies. California's mercury thermostat law requires manufacturers to estimate the number of mercury thermostats available for collection in that state. Results from the manufacturers' study are now available. In the first year of a collection program in California, manufacturers estimate that between 237,000 and 490,000 mercury thermostats will come out of service. To put these numbers into context, TRC collected 7,007 mercury thermostats in California in 2008, *just 1-3 percent of the number available for collection based on their own recycling rate methodology*. We expect that a problem of similar magnitude exists in Rhode Island. PSI is working jointly with state officials and others to develop a commonly accepted recycling rate methodology so that all states will have a useful tool to assess the performance of their mercury thermostat collection programs.

Financial incentive. H 7199 states that, if manufacturers fail to achieve a collection rate set by the RI DEM, they will need to improve performance by offering a financial incentive. Evidence from multiple examples indicates that financial incentives (set at \$5.00 as a minimum in this bill) boost collections significantly. Most convincingly, *Maine's thermostat program offers a \$5 incentive, and Maine collects the most thermostats per capita of any state*. In 2006, PSI ran a pilot program in Oregon that offered \$4.00 to any contractor who brought in a discarded mercury thermostat. By the end of the pilot, the number of thermostats collected in

Oregon increased 124%, from a baseline of 2,052 in 2005 to 4,587 in 2006. When we discontinued the pilot, the number of thermostats collected dropped significantly. Similar results were found in pilot incentive programs run by King County (Washington), and the Vermont Department of Environmental Conservation. While manufacturers object to the cost of such incentives, evidence indicates a clear causal relationship between providing an incentive and achieving results.

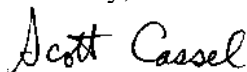
Additional considerations. We commend the strong role for retailers established in this bill. Experience from stewardship programs for paint, fluorescent lamps, batteries, and other products demonstrates the important role that retailers can play in providing convenient collection. We also ask the committee to reconsider the sunset provisions of this bill, which call for a review in 2017. The manufacturer's own study of mercury thermostats available for collection in California (noted earlier) finds that mercury thermostats will continue to come out of service for many decades. In year 25 of the California collection program, for example, 99,000 to 205,000 will be available for collection. The time horizon offered here may be too short.

While sales of mercury-containing thermostats are on the decline as manufacturers have shifted production to non-mercury digital thermostats, an estimated 50 million mercury-containing thermostats are still in use in homes throughout the United States. Those thermostats are coming off the wall every day. If not collected and recycled now, the potential for capturing this significant source of mercury will be forever lost.

Let me express PSI's appreciation to the House Committee on Environment and Natural Resources for spending the time necessary to understand this complex environmental issue, and to take action toward eliminating mercury emissions. PSI would welcome the opportunity to work with the Committee, manufacturers, state officials, and other key stakeholders to discuss a comprehensive strategy for collecting mercury thermostats and improving environmental quality.

Thank you for your consideration of these comments.

Sincerely,



Scott Cassel

Executive Director/Founder

cc: Representative Arthur Handy, Vice Chairperson

Representative Frank Ferri

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Representative Eileen S. Naughton

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