

ASSEMBLY, No. 817

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

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SYNOPSIS

“Electronic Waste Recycling Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning electronic waste recycling, and supplementing
2 Title 13 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Electronic
8 Waste Recycling Act.”

9

10 2. As used in this act:

11 ”Brand” means symbols, words, or marks that identify a covered
12 electronic device, rather than any of its components.

13 “Cathode ray tube” means a vacuum tube or picture tube used to
14 convert an electronic signal into a visual image.

15 “Computer” means an electronic, magnetic, optical,
16 electrochemical, or other high-speed data processing device
17 performing logical, arithmetic, or storage function, and may include
18 both a computer central processing unit and a monitor, but the term
19 shall not include an automated typewriter or typesetter, a portable
20 handheld calculator, a portable digital assistant, or other similar
21 device.

22 “Consumer” means an individual who purchases a covered
23 electronic device in a transaction that is a retail sale.

24 “Covered electronic device” means a desktop or personal
25 computer, computer monitor, portable computer, or television sold
26 to a consumer. A “covered electronic device” shall not include any
27 of the following: (1) an electronic device that is a part of a motor
28 vehicle or any component part of a motor vehicle assembled by, or
29 for, a vehicle manufacturer or franchised dealer, including
30 replacement parts for use in a motor vehicle; (2) an electronic
31 device that is functionally or physically a part of a larger piece of
32 equipment designed and intended for use in an industrial,
33 commercial, or medical setting, including diagnostic, monitoring, or
34 control equipment; (3) an electronic device that is contained within
35 a clothes washer, clothes dryer, refrigerator, refrigerator and
36 freezer, microwave oven, conventional oven or range, dishwasher,
37 room air conditioner, dehumidifier, or air purifier; or (4) a
38 telephone of any type unless it contains a video display area greater
39 than four inches measured diagonally.

40 “Department” means the Department of Environmental
41 Protection.

42 “Manufacturer” means any person: (1) who manufactures or
43 manufactured covered electronic devices under a brand that it owns
44 or owned or is or was licensed to use, other than a license to
45 manufacture covered electronic devices for delivery exclusively to
46 or at the order of the licensor; (2) who sells or sold covered
47 electronic devices manufactured by others under a brand that the

1 seller owns or owned or is or was licensed to use, other than a
2 license to manufacture covered electronic devices for delivery
3 exclusively to or at the order of the licensor; (3) who manufactures
4 or manufactured covered electronic devices without affixing a
5 brand; (4) who manufactures or manufactured covered electronic
6 devices to which it affixes or affixed a brand that it neither owns or
7 owned nor is or was licensed to use; or (5) for whose account
8 covered electronic devices manufactured outside the United States
9 are or were imported into the United States, provided however, if, at
10 the time such covered electronic devices are or were imported into
11 the United States, another person has registered as the manufacturer
12 of the brand of the covered electronic devices pursuant to
13 subsection b. of section 5 of this act, then paragraph (5) of this
14 definition shall not apply.

15 “Monitor” means a separate video display component of a
16 computer, whether sold separately or together with a computer
17 central processing unit and computer box, and includes a cathode
18 ray tube, liquid crystal display, gas plasma, digital light processing,
19 or other image projection technology, greater than four inches
20 measured diagonally, and its case, interior wires and circuitry, cable
21 to the central processing unit, and power cord.

22 “Obligation” means the return share in weight, identified for an
23 individual manufacturer, as determined by the department pursuant
24 to subsection a. of section 8 of this act.

25 “Orphan device” means a covered electronic device for which no
26 manufacturer can be identified.

27 “Person” means an individual, trust firm, joint stock company,
28 business concern, and corporation, including, but not limited to, a
29 government department, partnership, limited liability company, or
30 association.

31 “Portable computer” means a computer and video display greater
32 than four inches in size that can be carried as one unit by an
33 individual, including a laptop computer.

34 “Program year” means a full calendar year beginning on or after
35 January 1, 2009.

36 “Purchase” means the taking, by sale, of title in exchange for
37 consideration.

38 “Recycling” means any process by which materials which would
39 otherwise become solid waste are collected, separated or processed
40 and returned to the economic mainstream in the form of raw
41 materials or products. “Recycling” shall not include energy
42 recovery or energy generation by means of incinerating electronic
43 waste whether apart or in combination with other wastes.

44 “Registrant” means a manufacturer of covered electronic devices
45 that is in full compliance with the requirements of this act.

1 “Retail sales” means the sale of covered electronic devices
2 through sales outlets, via the Internet, mail order, or other means,
3 whether or not the retailer has a physical presence in this State.

4 “Retailer” means a person who owns or operates a business that
5 sells new covered electronic devices in this State by any means to a
6 consumer.

7 “Return share” means the proportion of covered electronic
8 devices for which an individual manufacturer is responsible to
9 collect, transport, and recycle, as determined by the department
10 pursuant to subsection a. of section 8 of this act. “Return share in
11 weight” means the total weight of covered electronic devices for
12 which an individual manufacturer is responsible to collect,
13 transport, and recycle, as determined by the department pursuant to
14 subsection a. of section 8 of this act.

15 “Sale” or “sell” means any transfer for consideration of title,
16 including, but not limited to, transactions conducted through sales
17 outlets, catalogs, or the Internet, or any other, similar electronic
18 means, and excluding leases.

19 “Television” means a stand-alone display system containing a
20 cathode ray tube or any other type of display primarily intended to
21 receive video programming via broadcast, having a viewable area
22 greater than four inches measured diagonally, able to adhere to
23 standard consumer video formats and having the capability of
24 selecting different broadcast channels and support sound capability.

25 “Video display” means an output surface having a viewable area
26 greater than four inches when measured diagonally that displays
27 moving graphical images or a visual representation of image
28 sequences or pictures, showing a number of quickly changing
29 images on a screen in fast succession to create the illusion of
30 motion, including, if applicable, a device that is an integral part of
31 the display and cannot be easily removed from the display by the
32 consumer that produces the moving image on the screen. A “video
33 display” typically uses a cathode ray tube, liquid crystal display,
34 gas plasma, digital light processing, or other image projection
35 technology.

36
37 3. a. Any manufacturer that is not in compliance with all
38 financial and other requirements of this act shall be prohibited from
39 selling or offering for sale in this State a covered electronic device.

40 b. Beginning on January 1, 2009, it shall be unlawful for any
41 person to sell or offer for sale in this State a new covered electronic
42 device from a manufacturer that is not in full compliance with the
43 requirements of this act.

44 c. The department shall maintain a list of all manufacturers in
45 compliance with the requirements of this act and shall post the list
46 on the department’s Internet website.

1 d. Sellers of products in or into the State shall consult the list
2 established by the department pursuant to subsection c. of this
3 section prior to selling covered electronic devices in this State. A
4 seller shall be considered to have complied with this responsibility
5 if, on the date that the product was ordered from the manufacturer
6 or its agent, the manufacturer was listed as being in compliance on
7 the aforementioned website.

8
9 4. On and after the effective date of this act, a manufacturer or
10 retailer may not sell or offer for sale a covered electronic device in
11 this State unless the covered electronic device is labeled with the
12 manufacturer's brand, and the label is permanently affixed and
13 readily visible.

14
15 5. a. (1) By January 30, 2010, and by each January 30
16 thereafter, the department shall:

17 (a) have completed an auditable, statistically significant
18 sampling of covered electronic devices collected from consumers in
19 this State by the department during the previous program year. The
20 sampling information collected shall consist of a list of brands of
21 covered electronic devices and the weight of covered electronic
22 devices that are identified for each brand. The department's
23 sampling shall be conducted in accordance with a procedure
24 established by the department and may be conducted by a third-
25 party organization including a recycler, to be determined by the
26 department. The department may, at its discretion, be present at the
27 sampling and may audit the methodology and the results of the
28 third-party organization. The costs associated with the sampling
29 shall be recovered from the fees paid by manufacturers to the
30 department; and

31 (b) determine the total weight of covered electronic devices,
32 including orphan devices, collected from consumers in this State by
33 the department during the previous program year.

34 (2) If a manufacturer or group of manufacturers conducts its
35 own collection, transportation, and recycling program for covered
36 electronic devices, the manufacturer or group of manufacturers shall
37 submit a report to the department annually by January 30, beginning
38 the year after the program is initiated. The report shall include:

39 (a) the results of an auditable, statistically significant sampling
40 of covered electronic devices collected from consumers in this State
41 by the manufacturer or group of manufacturers during the previous
42 program year. The sampling information reported shall consist of a
43 list of brands of covered electronic devices and the weight of
44 covered electronic devices that are identified for each brand; and

45 (b) the total weight of covered electronic devices, including
46 orphan devices, collected from consumers in this State by the
47 manufacturer or group of manufacturers during the previous

1 program year and documentation verifying collection and recycling
2 of such devices.

3 b. By January 1, 2008, and each January 1 thereafter, each
4 manufacturer of covered electronic devices offered for sale for
5 delivery in this State shall register with the department and pay a
6 registration fee of \$5,000. Any manufacturer to whom the
7 department provides notification of a return share and return share
8 in weight pursuant to subsection a. of section 8 of this act and who
9 has not previously filed a registration shall file a registration with
10 the department within 30 days of receiving such notification from
11 the department. Each manufacturer's registration and renewal shall
12 include a list of all of the manufacturer's brands of covered
13 electronic devices.

14

15 6. a. By June 1, 2008, each manufacturer to whom the
16 department provides, by April 2, 2008, a return share in weight that
17 is greater than zero shall:

18 (1) submit an additional fee to the department based on its return
19 share in weight of covered electronic devices. The fee shall be
20 calculated using the following formula: the manufacturer's return
21 share in weight multiplied by no more than \$0.50 per pound; or

22 (2) submit a plan to the department to collect, transport and
23 recycle covered electronic devices.

24 b. Each manufacturer to whom the department provides, by
25 February 15, 2010 or by February 15 of any year thereafter, a return
26 share in weight that is greater than zero shall, by March 15 of that
27 year, comply with the requirements of paragraphs (1) or (2) of
28 subsection a. of this section.

29 c. An individual manufacturer submitting a plan in lieu of
30 payment of the fee set forth in subsection a. of this section shall
31 collect, transport, and recycle its return share in weight.

32 d. A group of manufacturers jointly submitting a plan in lieu of
33 payment of the fee set forth in subsection a. of this section shall
34 collect, transport, and recycle the sum of the obligations of each
35 participating manufacturer.

36 e. Every plan shall be filed with a manufacturer's annual
37 registration, and shall include:

38 (1) Methods that will be used to collect the covered electronic
39 devices including the name and location of proposed collection
40 services;

41 (2) The processes and methods that will be used to recycle
42 recovered covered electronic devices including a description of the
43 recycling processes that will be used, including the name and
44 location of all recyclers to be directly utilized by the plan;

45 (3) Means that will be utilized to publicize the collection
46 services, including specification of a website or toll-free telephone
47 number that provides information about the manufacturer's program

1 in sufficient detail to allow consumers to learn how to return their
2 covered electronic devices for recycling; and

3 (4) The intention of the registrant to fulfill its obligation
4 through operation of its own plan, either individually or with other
5 manufacturers.

6 f. Before the fee set forth in subsection a. of this section may be
7 waived by the department, the plan shall be reviewed to determine
8 its compliance with subsection e. of this section and approved by
9 the department. Upon approval of the plan by the department, the
10 payment of the annual fee set forth in subsection a. of this section
11 shall be waived. The department may reject the plan, in whole or in
12 part, and may impose additional requirements as a condition of
13 approval.

14 g. If a manufacturer fails to comply with all the conditions and
15 terms of an approved plan, the manufacturer shall be required to
16 submit the following:

17 (1) A payment to the department to cover the cost of collecting,
18 transporting, and recycling the unmet portion of its obligation. The
19 payment shall be equal to the following formula: the quantity of the
20 outstanding portion, in pounds, multiplied by no more than \$0.50;
21 and

22 (2) A penalty in the form of a payment equal to the cost of
23 collecting, transporting, and recycling 10% of the manufacturer's
24 total obligation.

25 h. Manufacturers that collect, transport, and recycle covered
26 electronic devices in excess of their obligation may sell credits to
27 another registrant or apply that excess to the following year's
28 recycling obligation.

29 i. Whenever more than one person is within the definition of
30 manufacturer of a brand of a covered electronic device pursuant to
31 section 2 of this act, any one or more such persons may assume
32 responsibility for and satisfy the obligations of a manufacturer
33 under this act with respect to covered electronic devices bearing
34 that brand. In the event that no person assumes responsibility for
35 and satisfies the obligations of a manufacturer under this act with
36 respect to covered electronic devices bearing that brand, the
37 department may consider any one or more persons within such
38 definition to be the manufacturer of that brand.

39 j. The obligations under this act for a manufacturer who
40 manufactures or manufactured covered electronic devices, or who
41 sells or sold covered electronic devices manufactured by others,
42 under a brand that was previously used by a different person in the
43 manufacture of covered electronic devices shall extend to all
44 covered electronic devices bearing that brand.

45 k. Nothing in this act is intended to exempt any person from
46 liability the person would otherwise have under applicable law.

1 7. a. A retailer shall clearly post and provide information
2 provided by the department that describes where and how to recycle
3 the covered electronic device and opportunities and locations for
4 the collection or return of the device, through the use of a toll-free
5 telephone number and website, information included in the
6 packaging, or information provided accompanying the sale of the
7 covered electronic device. This information shall be provided in
8 clear written form in English and any other languages deemed to be
9 primary languages by the State Department of Education.

10 b. Beginning January 1, 2009, a retailer shall only sell products
11 from registrants. Retailers shall consult the list posted on the
12 department's Internet website pursuant to section 3 of this act prior
13 to selling covered electronic devices in this State. A retailer shall
14 be considered to have complied with this responsibility if on the
15 date that the product was ordered from the manufacturer or its
16 agent, the manufacturer was listed as being in compliance on the
17 aforementioned website.

18
19 8. a. (1) The department shall determine the return share for
20 each program year for each manufacturer by dividing the weight of
21 covered electronic devices identified for each manufacturer by the
22 total weight of covered electronic devices identified for all
23 manufacturers. For the first program year, the return share of
24 covered electronic devices identified for each manufacturer shall be
25 based on the best available public return share data from the United
26 States, including data from other states, for covered electronic
27 devices from consumers. For the second and each subsequent
28 program year, the return share of covered electronic devices
29 identified for each manufacturer shall be based on the most recent
30 samplings of covered electronic devices conducted in this State
31 pursuant to subsection a. of section 5 of this act.

32 (2) The department shall determine the return share in weight
33 for each program year for each manufacturer for whom a return
34 share is determined pursuant to paragraph (1) of this subsection by
35 multiplying the return share for each such manufacturer by the total
36 weight in pounds of covered electronic devices, including orphan
37 devices, collected from consumers the previous program year. For
38 the first program year, the total weight in pounds of covered
39 electronic devices shall be based on the best available public weight
40 data from the United States, including data from other states, for
41 covered electronic devices from consumers. For the second and
42 each subsequent program year, the total weight in pounds of
43 covered electronic devices shall be based on the total weight of
44 covered electronic devices, including orphan devices, determined
45 by the department pursuant to subsection a. of section 5 of this act.

46 (3) By April 2, 2008, the department shall provide each
47 manufacturer for whom a return share is determined pursuant to

1 paragraph (1) of this subsection with its return share and its return
2 share in weight for the first program year. Annually thereafter, by
3 February 15, beginning in 2010, the department shall provide each
4 manufacturer for whom a return share is determined pursuant to
5 paragraph (1) of this subsection with its return share and its return
6 share in weight for the second and subsequent program years.

7 b. The department shall receive fees from manufacturers as
8 provided in section 6 of this act.

9 c. (1) The department shall organize, administer, and ensure
10 that at least one electronics collection opportunity is available at
11 least five days a week in each county throughout the State and in
12 such a manner as to be convenient, to the maximum extent
13 practicable and feasible, to all consumers in the county.

14 (2) The department shall ensure that collection sites do not place
15 limits on the number of covered electronic devices permitted for
16 drop-off by consumers.

17 (3) The department shall encourage the use of existing
18 collection and consolidation infrastructures for handling covered
19 electronic devices to the extent that this infrastructure is accessible
20 on a regular and ongoing basis to at least 85% of the population of
21 the State, is cost effective, and meets the environmentally sound
22 management requirements of section 11 of this act.

23 d. (1) Beginning April 1, 2008, the department shall maintain a
24 list of registrants and the brands reported in each manufacturer's
25 registration, and post the list on the department's Internet website
26 that is updated at least once a month.

27 (2) The department shall organize and coordinate public
28 education and outreach.

29 e. The department shall use the revenues received from
30 registrants for the sole purpose of fulfilling its responsibilities under
31 this act. In the event that expenses from administration, education,
32 collection, transportation, and recycling activities exceed receipts,
33 the department may borrow from outside sources up to 10% of the
34 projected annual State revenues from fees submitted under this act.
35 Borrowed funds shall be repaid within two years.

36 f. The department shall prepare a plan every three years that:
37 (1) establishes per-capita collection and recycling goals; and (2)
38 identifies any necessary State actions to expand collection
39 opportunities to achieve the per-capita collection and recycling
40 goals. The plan shall be posted on the department's Internet
41 website and submitted, pursuant to section 2 of P.L.1991, c.164
42 (C.52:14-19.1), to the Legislature.

43 g. The department shall prepare an annual report, which shall be
44 posted on the department's Internet website and submitted, pursuant
45 to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

46 The annual report shall include the following:

- 1 (1) A list of all parties that the department has designated as
2 approved to receive payments for collection, transportation, or
3 recycling, the amount of payments it has made to those parties, and
4 the purpose of those payments;
- 5 (2) The total weight of covered electronic devices collected in
6 the State the previous calendar year;
- 7 (3) Progress toward achieving the overall annual total recovery
8 and recycling goals described in the plan prepared pursuant to
9 subsection f. of this section;
- 10 (4) A complete listing of all collection sites operating in the
11 State in the prior calendar year, the parties that operated them, and
12 the amount of material by weight collected at each site;
- 13 (5) An evaluation of the effectiveness of the education and
14 outreach program; and
- 15 (6) An evaluation of the existing collection and processing
16 infrastructure.
- 17 h. The program implemented to effectuate the provisions of this
18 act and its associated regulations shall be fully audited by an
19 independent, certified public accountant at the end of each calendar
20 year and the audit report shall be submitted, pursuant to section 2 of
21 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.
- 22
- 23 9. a. The department shall maintain a website and toll-free
24 number complete with up-to-date listings of where consumers can
25 bring covered electronic devices for recycling under the provisions
26 of this act.
- 27 b. The department shall not be held financially liable or
28 responsible for any violation of federal, State, or local law by any
29 person to whom the department makes payment pursuant to section
30 10 of this act.
- 31 c. No more frequently than annually and no less frequently than
32 biennially, the department shall review, at a public hearing, the
33 covered electronic device recycling rate and registration fees.
34 Recommended changes to the covered electronic device recycling
35 rate and registration fees shall be included in the annual report
36 required pursuant to subsection g. of section 8 of this act.
- 37 d. No fees or costs may be charged to consumers for the
38 collection, transportation, or recycling of covered electronic
39 devices.
- 40
- 41 10. The department shall engage in competitive bidding for the
42 collection, transportation, and recycling of covered electronic
43 devices in accordance with the procedures concerning the awarding
44 of public contracts provided in P.L.1954, c.48 (C.52:34-6 et seq.).
- 45 a. The department shall make payments for the collection,
46 transportation, and recycling of covered electronic devices to an
47 authorized or approved person, pursuant to this section, upon

1 receipt of a completed and verified invoice submitted to the
2 department in the form and manner determined by the department.

3 b. In order to receive payment, proof will be required that:

4 (1) the covered electronic device was collected from a consumer
5 who is a resident of the State or is otherwise located in the State, or
6 who provides evidence that the device was purchased in this State
7 after the effective date of this act;

8 (2) the collection, transportation, and recycling of the covered
9 electronic devices was conducted in accordance with all federal,
10 State, and local laws, including the requirements established under
11 this act, and any rules or regulations adopted pursuant thereto; and

12 (3) no fees or costs were charged to the consumer.
13

14 11. a. Covered electronic devices collected through any
15 program in this State, whether by manufacturers, retailers, for-profit
16 or not-for profit corporations, or units of government, or organized
17 by the department, shall be recycled in a manner that is in
18 compliance with all applicable federal, State, and local laws,
19 regulations, and ordinances, and shall not be exported for disposal
20 in a manner that poses a significant risk to the public health or the
21 environment.

22 b. The department shall establish performance requirements in
23 order for collectors, transporters, and recyclers to be eligible to
24 receive funds from the department. Every collector, transporter,
25 and recycler shall, at a minimum, demonstrate compliance with the
26 United States Environmental Protection Agency's Plug-In to
27 eCycling Guidelines for Materials Management as issued and
28 available on the United States Environmental Protection Agency's
29 Internet website in addition to any other requirements mandated by
30 federal or State law. The department shall maintain an Internet
31 website that shall include a list of collectors, transporters, and
32 recyclers that it has determined have met these performance
33 requirements.
34

35 12. On and after January 1, 2009, no person shall knowingly
36 dispose of a used covered electronic device, or any of the
37 components or subassemblies thereof, as solid waste.
38

39 13. a. The State, including the Attorney General and the
40 department, shall be authorized to initiate independent action to
41 enforce any provision of this act, including failure by a
42 manufacturer to remit the registration fee required pursuant to
43 section 5 of this act, the fee required pursuant to section 6 of this
44 act, or any fee required pursuant to subsection b. of section 14 of
45 this act to the department. Any funds awarded by the court shall be
46 used first to offset enforcement expenses. Money in excess of the
47 enforcement expenses shall be deposited into a separate account,

1 and shall be dedicated for use by the department solely for the
2 purposes of administering and enforcing the provisions of this act
3 and any rules or regulations adopted pursuant thereto.

4 b. Violations of the act include, but are not limited to:

5 (1) the sale of a new covered electronic device by any person
6 that is not in full compliance with the provisions of this act;

7 (2) the application for compensation for the collection,
8 transportation, and recycling of covered electronic devices not
9 collected within the State, or region as provided in section 15 of
10 this act;

11 (3) the use of a qualified collection program to recycle covered
12 electronic devices not discarded within the State, or region as
13 provided in section 15 of this act;

14 (4) the knowing failure to report or accurately report any data
15 required to be reported to the department pursuant to this act; and

16 (5) the non-payment of any fee required pursuant to this act.
17

18 14. a. The department shall adopt, pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), rules and regulations as are necessary to effectuate the
21 purposes of this act.

22 b. The department may, in accordance with a fee schedule
23 adopted as a rule or regulation pursuant to the provisions of the
24 "Administrative Procedure Act," establish and charge reasonable
25 fees for any of the services to be performed in connection with this
26 act, which shall cover the full costs incurred by the department for
27 the review of plans and for other costs incurred by the department
28 for implementation of this act.
29

30 15. The department is authorized to participate in the
31 establishment and implementation of a regional, multi-state
32 organization or compact to assist in carrying out the requirements
33 of this act.
34

35 16. This act is intended to govern all aspects of the collection
36 and recycling of covered electronic devices as those terms are
37 defined herein. Upon a determination by the Department of
38 Environmental Protection of an acceptable national program to
39 collect or recycle covered electronic devices, the Commissioner of
40 Environmental Protection shall notify, in writing, the Governor, the
41 President of the Senate and the Speaker of the General Assembly,
42 and the members of the Senate Environment Committee and the
43 Assembly Environment and Solid Waste Committee, or their
44 successors, of this determination.

45 The provisions of this act shall expire 60 days after the date of
46 the notification required pursuant to this section or within the
47 timeframe provided by federal law, as appropriate.

1 The department shall provide notice in the New Jersey Register
2 of any determination made pursuant to this section, and shall take
3 any administrative action necessary in order to implement the
4 national program.

5
6 17. This act shall take effect on January 1, 2008.

7
8
9 STATEMENT

10
11 This bill, the “Electronic Waste Recycling Act,” establishes a
12 recycling system for the safe and environmentally-sound
13 management of electronic devices and components; encourages the
14 design of electronic devices and components that are less toxic and
15 more recyclable; and promotes the development of a Statewide
16 infrastructure for collection and recycling of so-called end-of-life
17 electronics.

18 This bill provides that any manufacturer of covered electronic
19 devices that is not in full compliance with the requirements of this
20 bill as enacted would be prohibited from selling or offering a
21 covered electronic device for sale in the State. In addition, the bill
22 provides that beginning on January 1, 2009 it would be unlawful for
23 any person to sell or offer for sale in the State a new covered
24 electronic device from a manufacturer that is not in full compliance
25 with the requirements of this bill as enacted. The Department of
26 Environmental Protection (DEP) would maintain a list of all
27 manufacturers in compliance with these requirements and post the
28 list on the DEP’s Internet website. Sellers of products in or into the
29 State would be required to consult the list prior to selling covered
30 electronic devices in the State. A seller would be considered to
31 have complied with this responsibility if, on the date that the
32 product was ordered from the manufacturer or its agent, the
33 manufacturer was listed as being in compliance on the DEP’s
34 website.

35 In addition, a manufacturer or retailer may not sell or offer for
36 sale a covered electronic device in the State unless the device is
37 labeled with the manufacturer's brand, and the label is permanently
38 affixed and readily visible.

39 The bill imposes a ban on the disposal of used covered electronic
40 devices, or any of their components or subassemblies, as solid
41 waste beginning on January 1, 2009.

42 As used in the bill, “covered electronic device” means all
43 desktop or personal computers, computer monitors, portable
44 computers, and televisions sold to consumers. “Covered electronic
45 device” does not include: (1) an electronic device that is a part of a
46 motor vehicle or any component part of a motor vehicle assembled
47 by, or for, a vehicle manufacturer or franchised dealer, including

1 replacement parts for use in a motor vehicle; (2) an electronic
2 device that is functionally or physically a part of a larger piece of
3 equipment designed and intended for use in an industrial,
4 commercial, or medical setting, including diagnostic, monitoring, or
5 control equipment; (3) an electronic device that is contained within
6 a clothes washer, clothes dryer, refrigerator, refrigerator and
7 freezer, microwave oven, conventional oven or range, dishwasher,
8 room air conditioner, dehumidifier, or air purifier; or (4) a
9 telephone of any type unless it contains a video display area greater
10 than four inches measured diagonally.

11 The bill would require the DEP, by January 30, 2010, and
12 annually thereafter, to: complete an auditable, statistically
13 significant sampling of covered electronic devices collected from
14 consumers in the State by the DEP during the previous program
15 year, including a list of brands of covered electronic devices and the
16 weight of covered electronic devices that are identified for each
17 brand; and determine the total weight of covered electronic devices,
18 including orphan devices, collected from consumers in the State by
19 the DEP during the previous program year. The bill provides that
20 the costs associated with the sampling would be recovered from the
21 fees paid by manufacturers to the DEP.

22 The bill provides that if a manufacturer or group of
23 manufacturers conducts its own collection, transportation, and
24 recycling program for covered electronic devices, the manufacturer
25 or group of manufacturers would be required to submit a report to
26 the DEP annually by January 30, beginning the year after the
27 program is initiated. The report would include: the results of an
28 auditable, statistically significant sampling of covered electronic
29 devices collected from consumers in the State by the manufacturer
30 or group of manufacturers during the previous program year,
31 including a list of brands of covered electronic devices and the
32 weight of covered electronic devices that are identified for each
33 brand; and the total weight of covered electronic devices, including
34 orphan devices, collected from consumers in the State by the
35 manufacturer or group of manufacturers during the previous
36 program year and documentation verifying collection and recycling
37 of such devices.

38 By January 1, 2008 and each January 1 thereafter, every
39 manufacturer of covered electronic devices offered for sale for
40 delivery in the State would be required to register with the DEP and
41 pay a registration fee of \$5,000.

42 The bill would require, by June 1, 2008, each manufacturer to
43 whom the DEP provides, by April 2, 2008, a return share in weight
44 that is greater than zero to either submit an additional fee to the
45 DEP based on its return share in weight of covered electronic
46 devices or submit a plan to the DEP to collect, transport, and
47 recycle covered electronic devices.

1 Each manufacturer to whom the DEP provides, by February 15,
2 2010 or by February 15 of any year thereafter, a return share in
3 weight that is greater than zero would be required, by March 15 of
4 that year, to submit an additional fee to the DEP based on its return
5 share in weight of covered electronic devices, or submit a plan to
6 the DEP to collect, transport, and recycle covered electronic
7 devices.

8 The bill would require that a plan to collect, transport, and
9 recycle covered electronic devices be filed with a manufacturer's
10 annual registration. The plan would include, at a minimum:

11 (1) the methods that will be used to collect the covered
12 electronic devices including the name and location of proposed
13 collection services;

14 (2) the processes and methods that will be used to recycle
15 recovered covered electronic devices including a description of the
16 recycling processes that will be used, including the name and
17 location of all recyclers to be directly utilized by the plan;

18 (3) the means that will be utilized to publicize the collection
19 services; and

20 (4) the intention of the registrant to fulfill its obligation through
21 operation of its own plan, either individually or with other
22 manufacturers.

23 Upon approval of the plan by the DEP, the payment of the annual
24 fees based upon return share in weight by the manufacturer would
25 be waived. The bill provides that the DEP may reject the plan, in
26 whole or in part, and may impose additional requirements as a
27 condition of approval.

28 Any manufacturer that fails to comply with all the conditions and
29 terms of an approved plan would be required to submit: a payment
30 to the DEP to cover the cost of collecting, transporting, and
31 recycling the unmet portion of its obligation calculated according to
32 a formula prescribed in the bill; and a penalty in the form of a
33 payment equal to the cost of collecting, transporting, and recycling
34 10% of the manufacturer's total obligation.

35 Manufacturers that collect, transport, and recycle covered
36 electronic devices in excess of their obligation may sell credits to
37 another registrant or apply that excess to the following year's
38 recycling obligation.

39 The bill provides that every retailer must clearly post and
40 provide information provided by the DEP that describes where and
41 how to recycle the covered electronic device and opportunities and
42 locations for the collection or return of the device. This would be
43 accomplished through the use of a toll-free telephone number and
44 website, information included in the packaging, or information
45 provided accompanying the sale of the covered electronic device.

46 The bill provides that, beginning January 1, 2009, a retailer may
47 only sell products from registrants. Retailers must consult the list

1 posted on the DEP's Internet website prior to selling covered
2 electronic devices in the State. A retailer would be considered to
3 have complied with this responsibility if on the date that the product
4 was ordered from the manufacturer or its agent, the manufacturer
5 was listed as being in compliance on the website.

6 The bill requires the DEP to determine the return share for each
7 program year for each manufacturer by dividing the weight of
8 covered electronic devices identified for each manufacturer by the
9 total weight of covered electronic devices identified for all
10 manufacturers. For the first program year, the return share of
11 covered electronic devices identified for each manufacturer would
12 be based on the best available public return share data from the
13 United States, including data from other states, for covered
14 electronic devices from consumers. For the second and each
15 subsequent program year, the return share of covered electronic
16 devices identified for each manufacturer would be based on the
17 most recent samplings of covered electronic devices conducted in
18 the State.

19 The bill would require the DEP to determine the return share in
20 weight for each program year for each manufacturer for whom a
21 return share is determined pursuant to the bill by multiplying the
22 return share for each such manufacturer by the total weight in
23 pounds of covered electronic devices, including orphan devices,
24 collected from consumers the previous program year. The bill
25 requires the DEP, by April 2, 2008, to provide each manufacturer
26 for whom a return share is determined pursuant to the bill with its
27 return share and its return share in weight for the first program year.
28 Annually thereafter, by February 15, beginning in 2010, the DEP
29 would be required to provide each manufacturer for whom a return
30 share is determined pursuant to the bill with its return share and its
31 return share in weight for the second and subsequent program years.

32 The DEP would be required to organize, administer, and ensure
33 that at least one electronics collection opportunity is available at
34 least five days a week in each county throughout the State and in
35 such a manner as to be convenient, to the maximum extent
36 practicable and feasible, to all consumers in the county. The DEP
37 would also be required to ensure that collection sites do not place
38 limits on the number of covered electronic devices permitted for
39 drop-off by consumers.

40 In addition, the DEP would be required to encourage the use of
41 existing collection and consolidation infrastructures for handling
42 covered electronic devices to the extent that this infrastructure is
43 accessible on a regular and ongoing basis to at least 85% of the
44 population of the State, is cost effective, and meets the
45 environmentally sound management requirements of the bill.

46 In addition, the bill would require the DEP to: maintain a list of
47 registrants, including the brands reported in each manufacturer's

1 registration, and post the list on the DEP's Internet website that is
2 updated at least once a month; organize and coordinate public
3 education and outreach; and use the revenues received from
4 registrants for the sole purpose of fulfilling its responsibilities under
5 the bill. In the event that expenses from administration, education,
6 collection, transportation, and recycling activities exceed receipts,
7 the DEP may borrow from outside sources up to 10% of the
8 projected annual State revenues from fees submitted under the bill.
9 Borrowed funds must be repaid within two years.

10 The DEP would be required to prepare a plan every three years
11 that: establishes per-capita collection and recycling goals; and
12 identifies any necessary State actions to expand collection
13 opportunities to achieve the per-capita collection and recycling
14 goals. The plan is to be posted on the DEP's Internet website and
15 submitted to the Legislature.

16 The DEP is also required to prepare an annual report to be posted
17 on the DEP's Internet website and submitted to the Legislature.
18 The bill requires the annual report to include:

19 (1) a list of all parties that the DEP has designated as approved
20 to receive payments for collection, transportation, or recycling, the
21 amount of payments it has made to those parties, and the purpose of
22 those payments;

23 (2) the total weight of covered electronic devices collected in
24 the State the previous calendar year;

25 (3) the progress toward achieving the overall annual total
26 recovery and recycling goals described in the three-year plan
27 prepared by the DEP;

28 (4) a complete listing of all collection sites operating in the State
29 in the prior calendar year, the parties that operated them, and the
30 amount of material by weight collected at each site;

31 (5) an evaluation of the effectiveness of the education and
32 outreach program; and

33 (6) an evaluation of the existing collection and processing
34 infrastructure.

35 In addition, the DEP would be required to maintain a website and
36 toll-free number complete with up-to-date listings of where
37 consumers can bring covered electronic devices for recycling.

38 No more frequently than annually and no less frequently than
39 biennially, the DEP is to review, at a public hearing, the covered
40 electronic device recycling rate and registration fees. Any
41 recommendations for changes to the covered electronic device
42 recycling rate and registration fees are to be included in the
43 annual report.

44 The bill provides that no fees or costs may be charged to
45 consumers for the collection, transportation, or recycling of covered
46 electronic devices.

1 The DEP must engage in competitive bidding for the collection,
2 transportation, and recycling of covered electronic devices in
3 accordance with the procedures concerning the awarding of public
4 contracts provided by law. The DEP would make payments for the
5 collection, transportation, and recycling of covered electronic
6 devices to an authorized or approved person upon receipt of a
7 completed and verified invoice. In order to receive payment, proof
8 will be required that:

9 (1) the covered electronic device was collected from a consumer
10 who is a resident of the State or is otherwise located in the State, or
11 who provides evidence that the device was purchased in the State
12 after the bill's effective date;

13 (2) the collection, transportation, and recycling of the covered
14 electronic devices was conducted in accordance with all federal,
15 State, and local laws, including the requirements established under
16 this bill, and any rules or regulations adopted pursuant thereto; and

17 (3) no fees or costs were charged to the consumer.

18 The bill requires the DEP to establish performance requirements
19 in order for collectors, transporters, and recyclers to be eligible to
20 receive funds. Every collector, transporter, and recycler must, at a
21 minimum, demonstrate compliance with the United States
22 Environmental Protection Agency's Plug-In to eCycling Guidelines
23 for Materials Management in addition to any other requirements
24 mandated by federal or State law. The DEP is to maintain an
25 Internet website that includes a list of collectors, transporters, and
26 recyclers that it has determined have met these performance
27 requirements.

28 The bill authorizes the State, including the Attorney General and
29 the DEP, to initiate independent action to enforce the bill's
30 provisions. Any funds awarded by the court are to be used first to
31 offset enforcement expenses. The bill provides that any funds in
32 excess of enforcement expenses are to be deposited into a separate
33 account, and dedicated for use by the DEP solely for the purposes
34 of administering and enforcing the provisions of the bill. The bill
35 specifies that violations include but are not limited to:

36 (1) the sale of a new covered electronic device by any person
37 that is not in full compliance with the bill's provisions;

38 (2) the application for compensation for the collection,
39 transportation, and recycling of covered electronic devices not
40 collected within the State, or region as provided in section 15 of the
41 bill;

42 (3) the use of a qualified collection program to recycle covered
43 electronic devices not discarded within the State, or region as
44 provided in section 15 of the bill;

45 (4) the knowing failure to report or accurately report any data
46 required to be reported to the DEP; and

1 (5) the non-payment of fees required to be submitted to the
2 DEP.

3 The bill authorizes the DEP to participate in the establishment
4 and implementation of a regional, multi-state organization or
5 compact to assist in carrying out the requirements of this bill.

6 Lastly, the bill provides that the DEP Commissioner would
7 notify, in writing, the Governor, the President of the Senate and the
8 Speaker of the General Assembly, and the members of the Senate
9 Environment Committee and the Assembly Environment and Solid
10 Waste Committee, or their successors, at such time as the DEP
11 determines that there is an acceptable national program to collect
12 or recycle covered electronic devices. The bill provides that the
13 provisions of this legislation, if enacted, would expire 60 days after
14 the date of the DEP's notification or within the timeframe provided
15 by federal law, as appropriate. The bill requires the DEP to
16 provide notice in the New Jersey Register of this determination, and
17 authorizes the DEP to take any administrative action necessary in
18 order to implement the national program.