

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1736 Session of
2017

INTRODUCED BY C. QUINN, DEAN, BARRAR, V. BROWN, CHARLTON,
MULLERY, KAUFFMAN, D. COSTA, WATSON, A. HARRIS AND FARRY,
AUGUST 18, 2017

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
AUGUST 18, 2017

AN ACT

1 Amending the act of November 23, 2010 (P.L.1083, No.108),
2 entitled "An act establishing a recycling program for certain
3 covered devices; imposing duties on manufacturers and
4 retailers of certain covered devices; providing for the
5 powers and duties of the Department of Environmental
6 Protection and for enforcement; establishing the Electronic
7 Materials Recycling Account in the General Fund; and
8 prescribing penalties," in preliminary provisions, further
9 providing for definitions; in duties of manufacturers and
10 retailers, further providing for registration and for
11 manufacturer plan and reporting; establishing the
12 Supplementary Program and the Supplementary Program Fund;
13 and, in administration, further providing for duties of
14 department, for fees for collection or recycling of covered
15 devices and for enforcement.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 102 of the act of November 23, 2010
19 (P.L.1083, No.108), known as the Covered Device Recycling Act,
20 is amended to read:

21 Section 102. Definitions.

22 The following words and phrases when used in this act shall
23 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Brand." Symbols, words or marks that identify a covered
3 device, rather than any of its components.

4 "Cathode ray tube" or "CRT." A vacuum tube or picture tube
5 used to convert an electronic signal into a visual image.

6 "Computer." A desktop or notebook computer. The term does
7 not include an automated typewriter, professional workstation,
8 server, mobile telephone, portable handheld calculator, portable
9 digital assistant, MP3 player or other similar device.

10 "Computer manufacturer." A person:

11 (1) who manufactures covered computer devices to be sold
12 under its own brand as identified by its own brand label;

13 (2) who sells covered computer devices manufactured by
14 others under its own brand as identified by its own brand
15 label; or

16 (3) who assumes the duties imposed on the computer
17 manufacturer under this act.

18 The term does not include a person who manufactures only
19 peripheral computer devices.

20 "Consumer." [An] A small business or an occupant of a single
21 detached dwelling unit or a single unit of a multiple dwelling
22 unit who has used a covered device primarily for personal or
23 small business use. For purposes of this definition, a small
24 business is an entity that is independently owned or operated,
25 employs 50 or fewer people, has purchased or leased a covered
26 computer device from a computer manufacturer or retailer and,
27 but for the program established under this act, would not
28 otherwise have access to electronic recycling programs.

29 "Contract target weight." The share of the Supplementary
30 Program target weight for each contract resulting from an

accepted request for proposal under that program, in which the
weight of the share is determined by dividing the population of
the county or counties participating in the request for proposal
by the total population of this Commonwealth and then
multiplying the result by the Supplementary Program target
weight for that year.

"Covered computer device." A desktop or notebook computer or computer monitor or peripheral, marketed and intended for use by a consumer. The term does not include a covered television device.

"Covered device." A covered computer device and covered television device marketed and intended for use by a consumer. The term does not include:

(1) a device that is a part of a motor vehicle or any component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(2) a device that is functionally or physically a part of or connected to or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development or medical setting, including, but not limited to, diagnostic, monitoring, control or medical products as defined under the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.), or equipment used for security, sensing, monitoring, antiterrorism, emergency services purposes or equipment designed and intended primarily for use by professional users;

(3) a device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer,

microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier or exercise equipment; or

(4) any of the following:

(i) Telephone of any type, including a mobile phone.

(ii) Personal digital assistant.

(iii) Global positioning system.

"Covered television device." An electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable or satellite, including, without limitation, any direct view or projection television with a viewable screen of four inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device or a mobile telephone.

"Department." The Department of Environmental Protection of the Commonwealth.

"Desktop computer." An electronic, magnetic, optical, electrochemical or other high-speed data processing device which:

(1) Performs logical, arithmetic and storage functions for general purpose needs which are met through interaction with a number of software programs contained in the device.

(2) Is not designed to exclusively perform a specific type of limited or specialized application.

(3) Achieves human interface through a stand-alone

1 keyboard, stand-alone monitor or other display unit and a
2 stand-alone mouse or other pointing device and is designed
3 for a single user.

4 (4) Has a main unit that is intended to be persistently
5 located in a single location, often on a desk or on the
6 floor.

7 "Estimated cost of contract plus collection." The sum of the
8 price per pound of each contract plus the price per pound of
9 collection paid to the county times the contract target weight
10 of that contract.

11 "Final registered manufacturer's obligated weight." A
12 registered manufacturer's market share multiplied by the final
13 total collected weight.

14 "Final Supplementary Program price per pound." The total of
15 all costs paid out of the Supplementary Program Fund in the year
16 divided by the total pounds collected under the Supplementary
17 Program during that year.

18 "Final total collected weight." The sum of the total weight
19 collected by each of the registered manufacturers and the total
20 weight collected under the Supplementary Program.

21 "Fund." The Supplementary Program Fund established under
22 this act.

23 "Invitation for bid." All documents, including those either
24 attached or incorporated by reference, used for soliciting bids.

25 "Manufacturer." A computer manufacturer or a television
26 manufacturer. The term shall not include a manufacturer who
27 produces less than 100 units per year or the refurbishment of
28 covered devices for resale.

29 "Market share by weight." An estimate of the total weight of
30 a manufacturer's sales of covered devices during the previous

1 program year calculated by multiplying the weight of its covered
2 devices sold nationally times the quotient of this
3 Commonwealth's population divided by the national population.

4 "Market share percentage." A factor determined by dividing
5 an individual registered manufacturer's market share by weight
6 by the total of all registered manufacturers' market shares by
7 weight.

8 "New covered device." A covered device that is manufactured
9 after the effective date of this section.

10 "Notebook computer." An electronic, magnetic, optical,
11 electrochemical or other high-speed data processing device
12 which:

13 (1) Performs logical, arithmetic or storage functions
14 for general purpose needs which are met through interaction
15 with a number of software programs contained in the device.

16 (2) Is not designed to exclusively perform a specific
17 type of limited or specialized application.

18 (3) Achieves human interface through a keyboard, video
19 display greater than four inches in size and mouse or other
20 pointing device, all of which are contained within the
21 construction of the unit which comprises the notebook
22 computer.

23 (4) Can be carried as one unit by an individual.

24 (5) May include a supplemental stand-alone interface
25 device.

26 (6) May use external, internal or batteries for a power
27 source.

28 The term does not include a portable handheld calculator,
29 portable digital assistant or similar specialized device.

30 "Obligated share." The proportion of covered devices that

reflects a manufacturer's market share responsibility under this act.

"Peripheral." A keyboard, printer or any other device sold exclusively for external use with a computer that provides input into or output from the computer. The term does not include adaptive or assistive technologies.

"Person." An individual, trust, firm, joint stock company, business concern, corporation, government agency, partnership, limited liability company or association.

"Program year." A full calendar year beginning on or after January 1, 2011.

"Purchase." The taking by sale of title in exchange for consideration.

"Recycling." A process by which covered devices that would otherwise become solid waste or hazardous waste are collected, transported, separated and processed, including disassembling, dismantling or shredding, to be returned to use in the form of raw materials or products in accordance with environmental standards established by the Department of Environmental Protection.

"Registered manufacturer share of Supplementary Program."
Each registered manufacturer's financial obligation under the
Supplementary Program calculated by multiplying the registered
manufacturer's market share percentage times the total estimated
cost of Supplementary Program.

"Responsive bid." A bid which conforms in all material
respects to the requirements and criteria in the invitation for
bids.

"Retail sales." The sale of covered devices through sales outlets, via the Internet, mail order or other means, regardless

1 of whether the retailer has a physical presence within this
2 Commonwealth.

3 "Retailer." A person who offers for sale, other than for
4 resale by the purchaser, new covered devices in this
5 Commonwealth by any means, including, but not limited to, sales
6 outlets, catalogs or the Internet.

7 "Sale" or "sell." A transfer for consideration of title,
8 including, but not limited to, a transaction conducted through a
9 sales outlet, catalog, the Internet or any other similar
10 electronic means. The term does not include a lease.

11 "Secretary." The Secretary of Environmental Protection of
12 the Commonwealth.

13 "Supplementary Program." A program intended to collect,
14 transport and recycle covered devices that consumers wish to
15 dispose of and are not otherwise collected and recycled through
16 a manufacturer's program.

17 "Supplementary Program target weight." Estimated surplus
18 covered devices as determined by the department prior to the
19 beginning of the program year. For 2018, the term shall be
20 30,000,000 pounds. In subsequent years, the department shall set
21 the target weight based on the prior year's actual collected
22 weight in the Supplementary Program.

23 "Television manufacturer." A person who:

24 (1) manufactures covered television devices to be sold
25 under its own brand as identified by its own brand label or
26 being sold under a brand it is licensed to use;

27 (2) sells covered television devices manufactured by
28 others under its own brand as identified by its own brand
29 label; or

30 (3) assumes the duties imposed on a television

1 manufacturer under this act.

2 "Total estimated cost of Supplementary Program." The sum of
3 the estimated cost of contracts awarded in this Commonwealth for
4 that program year, including associated county collection costs.

5 Section 2. Sections 304 and 305 of the act are amended to
6 read:

7 Section 304. Registration.

8 (a) Manufacturers registration.--

9 (1) A manufacturer of new covered devices offered for
10 sale in this Commonwealth shall register with the department
11 by [January 30, 2011, or six months after the effective date
12 of this section, whichever is later,] August 31 and pay a
13 registration fee of [\$5,000] \$10,000.

14 (2) After [January 30, 2011, or six months after the
15 effective date of this section, whichever is later] August
16 31, if a manufacturer has not previously filed a
17 registration, the manufacturer shall file a registration with
18 the department prior to any offer for sale or delivery in
19 this Commonwealth of the manufacturer's new covered devices
20 and shall pay to the department a registration fee of
21 [\$5,000] \$10,000.

22 (3) A registered manufacturer shall submit an annual
23 renewal of its registration to the department and pay to the
24 department a registration fee of [\$5,000 by January 1]
25 \$10,000 by August 31 of each program year. The registration
26 and each annual renewal shall include a list of all brands
27 the manufacturer is using on its covered devices regardless
28 of whether the manufacturer owns or licenses the brand and
29 shall be effective upon receipt by the department.

30 (b) (Reserved).

Section 305. Manufacturer plan and reporting.

(a) Collection, transportation and recycling plan.--

(1) A manufacturer shall establish, conduct and manage a plan to collect, transport and recycle a quantity of covered devices equal to the manufacturer's market share by weight.

The plan shall be submitted to the department for review by August 31 of each program year.

(1.1) A manufacturer may opt out of the requirements of this section by notifying the department by August 31 of each program year of its intent to meet its obligations under this act entirely in accordance with Chapter 4 and by making a payment into the fund in an amount equal to its share under this section.

(2) A group of manufacturers may submit a joint plan to collect, transport and recycle the manufacturer's market share.

(b) Contents of plan.--The plan required under subsection

(a) shall include:

(1) Methods that will be used to collect the covered devices, including the name and locations of proposed collection sites.

(2) The processes that will be used to recycle, including a description of the recycling processes that will be used and the names and locations of recyclers to be directly utilized by the plan.

(3) Means that will be utilized to publicize the collection opportunities, including specification of an Internet website address or toll-free telephone number that provides information about the manufacturer's program in sufficient detail to allow consumers to learn how to return

1 their covered devices for recycling.

2 (4) The intention of the manufacturer or each
3 manufacturer to fulfill its obligated share under this act,
4 through operation of its own program, either individually or
5 with other manufacturers as a group.

6 (5) A listing of all collection sites for covered
7 devices.

8 (6) For an initial plan submitted by a manufacturer or
9 group of manufacturers, an estimate of the weight of covered
10 devices to be collected during the first program year. [The
11 plan shall also include information demonstrating the process
12 by which the manufacturer or group of manufacturers will
13 increase the collection of covered devices by a minimum of 2%
14 by weight per year beginning with the second full program
15 year.]

16 (7) A plan to collect covered devices in each of the
17 department's six regions.

18 (8) A plan to collect covered devices throughout the
19 calendar year, including the collection of no less than 10%
20 of a manufacturer's obligated share per quarter.

21 (9) A plan to manage CRTs collected through the program,
22 which plan shall provide for recycling or smelting within one
23 year of collection in accordance with all applicable Federal
24 and State laws.

25 (c) Reporting by manufacturers.--

26 (1) (i) [In] For the year 2017 and each year
27 thereafter, in addition to reporting all brands under
28 which its covered devices are offered for sale,
29 regardless of whether the manufacturer owns or licenses
30 the brand, the manufacturer's annual report to the

1 department shall include [an estimate of the total weight
2 of its covered devices sold to households during the
3 previous year calculated by multiplying the weight of its
4 covered devices sold nationally times the quotient of
5 this Commonwealth's population divided by the national
6 population.] the manufacturer's market share by weight
7 calculated on June 30, based on the prior 12 months of
8 sales.

9 (ii) The report required under this paragraph shall
10 be submitted to the department upon initial registration
11 and [then by January 30] by October 31 and each year
12 thereafter.

13 (2) When a manufacturer or group of manufacturers
14 conducts its own collection, transportation and recycling
15 program for covered devices, the manufacturer or group of
16 manufacturers shall submit a report to the department
17 annually by January 30, beginning the year after the program
18 is initiated. The report shall consist of the total weight of
19 covered devices collected from consumers in this Commonwealth
20 by the manufacturer or group of manufacturers during the
21 previous year and documentation verifying collection and
22 recycling of the devices.

23 (d) Sales data.--National sales data submitted by a
24 manufacturer to the department to fulfill its obligations under
25 this act shall be exempt from disclosure under the provisions of
26 the act of February 14, 2008 (P.L.6, No.3), known as the Right-
27 to-Know Law, and shall not be disclosed by the department unless
28 otherwise required by law or court order.

29 (e) Approval of plan.--

30 (1) The department shall review a plan submitted to it

1 under subsection (a) and, within 60 days of receipt of the
2 plan, determine whether the plan complies with the provisions
3 of this act.

4 (2) If the department approves the plan, the department
5 shall notify the manufacturer or group of manufacturers. If
6 the department rejects the plan, in whole or in part, the
7 department shall notify the manufacturer or group of
8 manufacturers and provide the reasons for the plan's
9 rejection. Rejection of a plan shall be based on the plan's
10 failure to provide the information required by subsection
11 (b).

12 (3) Within 30 days after receipt of the department's
13 rejection, the manufacturer or group of manufacturers may
14 revise and resubmit the plan to the department for approval.

15 [(f) Effect of failure to comply with approved plan.--

16 (1) (i) If the total weight in pounds of covered
17 devices collected, transported and recycled during a
18 program year by a manufacturer or group of manufacturers
19 is less than the sum of the obligated shares in weight
20 for that program year of each manufacturer participating
21 in the plan, the manufacturer or group of manufacturers
22 shall submit to the department by March 15 of the
23 following program year a payment to cover the cost of
24 collecting, transporting and recycling the unmet portion
25 of the sum of the obligated shares in weight.

26 (ii) The payment shall be equal to the quantity of
27 the unmet portion, in pounds, plus an additional 10% of
28 such quantity, multiplied by the cost per pound for
29 collection, transportation and recycling of covered
30 devices.

(iii) All payments collected under subparagraph (ii) shall be deposited into the Electronic Materials Recycling Account and shall be used to fund the activities under this act.

(2) The department shall:

(i) Determine the average cost for collection and transportation of covered devices to be used in calculating the penalties under this paragraph.

(ii) No more frequently than annually and no less frequently than biennially, review these costs and shall publish for public comment any proposed changes to these costs.]

(g) Multiple manufacturers.--

(1) Where more than one person may be deemed the manufacturer of a brand of a covered device, any one or more such persons may assume responsibility for and satisfy the obligations of a manufacturer under this act with respect to covered devices bearing that brand.

(2) In the event that no person assumes responsibility for and satisfies the obligations of a manufacturer under this act with respect to covered devices bearing that brand, for purposes of compliance with these provisions, the responsible party shall be the person who satisfies paragraph (1) of the definition of manufacturer.

(3) The manufacturer or group of manufacturers shall submit a report to the department quarterly, 30 days after the conclusion of each quarter. The report shall consist of the total weight of covered devices collected from consumers in this Commonwealth by the manufacturer or group of manufacturers during the previous quarter, including

documentation verifying collection and recycling of the devices.

(h) Construction.--Nothing in this act shall be construed to exempt any person from liability that person would otherwise have under applicable law.

Section 3. The act is amended by adding a chapter to read:

CHAPTER 4

SUPPLEMENTARY PROGRAM

Section 401. Supplementary Program target weight.

(a) Collection year 2017.--For collection year 2017, manufacturers registered under this act may collect in excess of their obligated share, and upon verification, have the excess weight counted toward their obligation for the 2018 collection year.

(b) Collection year 2018.--For collection year 2018, manufacturers registered under this act shall have a total obligated share as follows:

(1) One hundred percent of their obligated share through plans submitted under section 305.

(2) The Supplementary Program target weight through collections as provided for under this chapter.

Section 402. County participation in Supplementary Program.

Counties wishing to participate in the Supplementary Program provided for in this chapter shall, by August 31, 2017, and on that date each year thereafter, designate up to three locations, or more if the department deems necessary, in that county suitable for collection sites for covered devices as follows:

(1) Each site shall meet standards provided by the department regarding adequate storage space for at least 12 pallets or similar containers comprising a truckload, which

1 pallets or similar containers are stacked, sorted by product
2 type, shrink-wrapped and ready for shipment.

3 (2) Each site shall have regular operating hours through
4 the year and be staffed to ensure that only covered devices
5 are placed in the designated pallets or similar containers.

6 (3) Each site shall accept all covered devices
7 regardless of type or brand.

8 (4) When at least 12 fully loaded pallets, or their
9 equivalent equal to a truckload, have been accumulated, the
10 staff at the site shall notify the party designated by the
11 department contracted under section 403.

12 (5) The county shall be reimbursed at the rate of \$0.05
13 per pound for covered devices collected, stored and
14 transported from each site the county has designated from the
15 account as provided under section 404.

16 Section 403. Contracts for transportation and recycling in
17 Supplementary Program.

18 (a) Invitation to bid.--

19 (1) The department shall within 120 days of the
20 effective date of this section and by September 30 of each
21 year thereafter, in coordination with the Department of
22 General Services, issue an invitation to bid in accordance
23 with 62 Pa.C.S. § 512 (relating to competitive sealed
24 bidding) to transport and recycle the surplus covered devices
25 returned at the designated sites under section 402.

26 (2) The department may require bids to cover multiple
27 counties or regions and may award multiple contracts to
28 ensure full coverage of this Commonwealth.

29 (3) Bids shall include information sufficient to prove
30 to the department's satisfaction that the bidder can provide

transportation and recycling in accordance with section 505.

(b) Eligibility.--A manufacturer registered in this Commonwealth under this act shall be eligible to submit proposals and receive contracts under this section. If an eligible manufacturer is awarded a contract under this section, that manufacturer shall be credited, under the terms and conditions of the contract, for its proportion of surplus covered devices.

(c) Deadline for award.--The department shall annually award contracts under this section to the lowest responsible and responsive bidder by December 1, 2017, and each year thereafter.

(d) Duty to monitor and report.--The department shall on a quarterly basis monitor and report weight collected under the Supplementary Program.

Section 404. Supplementary Program Fund.

(a) Establishment.--The Supplementary Program Fund is established as a restricted account in the State Treasury.

(b) Calculation of obligated shares.--

(1) By December 1, 2017, and each year thereafter, the department shall calculate each registered manufacturer's initial obligated share of the fund by multiplying the registered manufacturer's market percentage share by the total estimated cost of the Supplementary Program.

(2) Each registered manufacturer shall remit its share to the department no later than January 31, 2018, and each year thereafter.

(c) Disbursements.--The department shall authorize disbursements from the fund to a county and those awarded contracts under section 403 upon receipt of satisfactory proof that the weight of covered devices has been:

1 (1) in the case of a county, transported from the
2 collection site by the contractor; or

3 (2) in the case of a contractor, transported and
4 recycled in accordance with the contract.

5 (d) Supplementary assessment authorized.--

6 (1) The department shall review the balance in the fund
7 at least quarterly to determine if the balance is sufficient
8 to meet payment obligations to the counties and those awarded
9 contracts under the Supplementary Program.

10 (2) If the fund has a balance of less than 45% of the
11 total assessed for that year on June 30, less than 20% of the
12 total assessed for that year on September 30, or the
13 department otherwise determines that the fund is insufficient
14 to cover authorized disbursements, the department shall
15 notify the registered manufacturers that a supplementary
16 assessment is due.

17 (3) The total supplementary assessment shall be
18 sufficient to restore the fund to 50% of the total estimated
19 cost of Supplementary Program for that year by July 31 or 25%
20 by October 31 or in such an amount as the department deems
21 necessary.

22 (4) The supplementary assessment shall be charged to
23 each manufacturer based on its respective market share
24 percentage for that year and shall be due and payable 30 days
25 after being presented by the department.

26 (e) Meeting obligated shares.--A manufacturer may meet its
27 obligated share through either its manufacturer plan under
28 section 305 or the Supplementary Program, or a combination of
29 both programs.

30 (f) Adjustments for shortfalls and credits.--

1 (1) At the end of the program year, the department shall
2 deduct the actual weight collected by a registered
3 manufacturer from the manufacturer's final registered
4 manufacturer's obligated weight and multiply the difference
5 by the final Supplementary Program price per pound.

6 (2) If the resulting amount is more than the amount paid
7 into the fund by that manufacturer, the department shall
8 notify the manufacturer of the amount of the shortfall and
9 the manufacturer shall pay that amount into the fund within
10 30 days of the notice.

11 (3) If the amount paid into the fund is in excess of the
12 amount due from that manufacturer, the manufacturer, at its
13 option, may request a refund paid out of the fund or leave
14 the balance in the fund as a credit against an obligation for
15 the succeeding year.

16 Section 405. Calculation of obligated share for future year.

17 (a) General rule.--The department shall use the final total
18 collected weight, along with other factors that the department
19 deems relevant, to establish the Supplementary Program target
20 weight for the succeeding year.

21 (b) Duty to adjust.--By January 15, 2019, and each
22 successive year thereafter, the department shall review, and
23 adjust if necessary, the total target weight that registered
24 manufacturers are required to meet in their plans under section
25 305.

26 Section 4. Sections 501, 504 and 507 of the act are amended
27 to read:

28 Section 501. Duties of department.

29 The department shall:

30 (1) Encourage the use of existing collection and

1 consolidation infrastructure for handling covered devices to
2 the extent that this infrastructure is accessible on a
3 regular and ongoing basis to [at least 85% of] the population
4 of this Commonwealth, is cost effective and meets the
5 environmentally sound management requirements of section 506.

6 (2) Update the list maintained pursuant to section
7 302(b) upon receipt by the department of a manufacturer's
8 registration or an annual manufacturer registration renewal.

9 (3) Organize and coordinate public education and
10 outreach. The department shall work with retailers to develop
11 the appropriate public education and outreach materials and
12 to assist retailers as necessary in the conduct of their
13 public education and outreach efforts.

14 (4) Review all plans submitted by a manufacturer or
15 group of manufacturers for the collection, transportation and
16 recycling of covered devices.

17 (5) Oversee the implementation of all approved plans and
18 take the necessary actions to ensure compliance with approved
19 plans.

20 Section 504. Fees for collection or recycling of covered
21 devices.

22 (a) General rule.--No manufacturer or retailer may charge a
23 fee or cost to a consumer for the collection, transportation or
24 recycling of a covered device, unless a financial incentive of
25 equal or greater value is provided to the consumer. The
26 financial incentive may be in the form of a coupon or rebate.

27 (b) Nonparticipating sources.--Recyclers may process covered
28 devices that have been collected from sources that are not
29 participating in a program under this act as long as they report
30 to the department that they are doing so and separately report

1 weight recycled for participating and nonparticipating sources.

2 Section 507. Enforcement.

3 (a) Judicial action.--

4 (1) The Commonwealth, through the department or in
5 conjunction with the Attorney General [and the department],
6 may initiate independent action to enforce any provision of
7 this act, including failure by the manufacturer to submit a
8 plan as required in section 305 or to remit the registration
9 fee pursuant to section 304(a) to the department.

10 (2) Any funds awarded by the court shall be used first
11 to offset enforcement expenses. Money in excess of the
12 enforcement expenses shall be deposited into the Electronic
13 Materials Recycling Account and used to support the
14 activities under this act.

15 (b) Penalties.--

16 (1) Any manufacturer who fails to label its new covered
17 devices with a brand, as required by section 303, who fails
18 to register with the department and pay a registration fee,
19 as required by section 304(a), may be assessed a penalty of
20 up to \$10,000 for the first violation and up to \$25,000 for
21 the second and each subsequent violation in addition to
22 paying for any fees, payments and penalties required by or
23 imposed pursuant to this act.

24 (2) Except as otherwise provided under paragraph (1),
25 any person, including a retailer, who violates any
26 requirement of this act may be assessed a penalty of up to
27 \$1,000 for the first violation and up to \$2,000 for the
28 second and each subsequent violation, in addition to paying
29 for any fees, payments and penalties required by or imposed
30 pursuant to this act.

1 (3) All penalty moneys collected under paragraphs (1)
2 and (2) shall be deposited into the Electronic Materials
3 Recycling Account and used to support the activities under
4 this act.

5 (c) Injunctive relief.--A violation of the sales
6 prohibitions of this act may be enjoined in an action in the
7 name of the Commonwealth, brought by the department or the
8 Attorney General.

9 Section 5. This act shall take effect in 60 days.