INTRODUCED BY ALLOWAY, McGARRIGLE, ARGALL, YUDICHAK, MENSCH, BREWSTER, YAW, FOLMER, VOGEL, STEFANO, WAGNER, WHITE AND BLAKE, JUNE 29, 2017

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JUNE 29, 2017

AN ACT

Establishing a recovery and management program that includes recycling for certain waste electronic equipment; imposing duties on manufacturers and retailers of certain electronic equipment; providing for the powers and duties of the Department of Environmental Protection and for enforcement; establishing the Waste Electronic Equipment Fund and the State Default Plan Account; prescribing penalties; and making a related repeal.

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

CHAPTER 1
GENERAL PROVISIONS

Section 101. Short title. This act shall be known and may be cited as the Waste Electronic Equipment Recovery Act.

Section 102. Purpose. The General Assembly finds and declares as follows:

(1) Electronic equipment is a critical element to the strength and growth of this Commonwealth's economic prosperity and quality of life.

(2) Many types of electronic equipment can be refurbished and many contain valuable components that can be
(3) The Commonwealth needs to establish a comprehensive, convenient and environmentally sound program for the collection, refurbishment, recycling and final disposition of waste electronic equipment that has reached the end of its useful life.

(4) The program should be based on individual manufacturer responsibility and shared responsibility among consumers, retailers and the government of this Commonwealth.

CHAPTER 2
DEFINITIONS

Section 201. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Account." The State Default Plan Account established under section 1002.

"Agent." An agency, organization, company or person delegated, assigned or under contract to carry out the responsibilities of this act under the supervision of the department.

"Brand." Symbols, words or marks that identify electronic equipment. The term does not include words or marks that identify any of the electronic equipment's components.

"Collection." The act of gathering and receiving waste electronic equipment from consumers.

"Competitive sealed bidding process." As provided in 62 Pa.C.S. (relating to procurement).

"Computer." An electronic, magnetic, optical, electromechanical or other high-speed data processing device
performing a logical, arithmetic or storage function. The term includes, but is not limited to, a computer central processing unit, a desktop unit, a notebook or a tablet. The term does not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant or other similar device.

"Computer manufacturer." A person that is a manufacturer of computers.

"Consolidation." The aggregation of waste electronic equipment for transportation and processing.

"Consumer." A resident of this Commonwealth who has purchased or used electronic equipment primarily for personal use.

"Contract." A type of written agreement for the procurement or disposal of supplies, services or construction, executed by all parties and reviewed in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

"Contractor." A person that has entered into a contract under this act.

"Convenience center." A location identified in the State default plan, an individual alternative plan or a joint alternative plan where waste electronic equipment is collected and consolidated.

"CRT." Cathode Ray Tube.

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

"Disposal." The deposition, injection, dumping, spilling, leaking, incineration or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent
of the solid waste enters the environment, is emitted into the air or is discharged to the waters of this Commonwealth.

"Electronic equipment." The term includes televisions, computers, monitors and peripherals. The term does not include:

1. a device that is a part of a motor vehicle or a 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, 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 provided 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 or emergency services purposes or equipment designed and intended primarily for use by professionals;

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) A telephone of any type, including a mobile phone.

   (ii) A personal digital assistant.

   (iii) A global positioning system.

"Financial obligation." The proportion of the total annual
cost for the collection, consolidation, transportation, recovery and management of waste electronic equipment for which a manufacturer has the responsibility to pay under this act. A manufacturer's financial obligation is calculated based on a formula using the manufacturer's annual market share reported to the department.


"Individual alternative plan." A plan in which a manufacturer petitions the department to assume on a countywide basis, for a specific county or counties, the full administrative, financial and operating responsibility for the collection, consolidation, transportation and recovery system of waste electronic equipment, which would otherwise be part of the State default plan.

"Joint alternative plan." A plan in which a group of manufacturers petitions the department to assume, for specific geographic areas, the full administrative, financial and operating responsibility for the collection, consolidation, transportation and recovery system of waste electronic equipment, which would otherwise be part of the State default plan.

"Manufacturer." A person that:

(1) Manufactures electronic equipment under a brand that:

(i) the person owns; or

(ii) the person is licensed to use, other than under a license to manufacture electronic equipment for delivery exclusively to or at the order of the licensor.

(2) Sells electronic equipment manufactured by others
under a brand that:

(i) the person owns; or

(ii) the person is licensed to use, other than under a license to manufacture electronic equipment for delivery exclusively to or at the order of the licensor.

(3) Manufactures electronic equipment without affixing a brand.

(4) Manufactures electronic equipment to which the person affixes a brand that:

(i) the person does not own; or

(ii) the person is not licensed to use.

"Market share." An estimate of the total weight of a manufacturer's sales of electronic equipment calculated by multiplying the weight of the electronic equipment sold nationally times the quotient of this Commonwealth's population divided by the national population.

"Monitor." A separate video display component inclusive of its case, interior wires and circuitry that does not contain a tuner and has a display area greater than four inches when measured diagonally. The term includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing or other image projection technology.

"Monitor manufacturer." A person that is a manufacturer of monitors.

"New electronic equipment." Electronic equipment that is manufactured after the effective date of this section.

"Nexus." A physical connection with this Commonwealth established by a business that conducts any of the following activities:

(1) Having or maintaining, either directly or through a
subsidiary, an office, distribution house, sales house, warehouse, service enterprise or other place of business irrespective of whether the place of business is located permanently or temporarily or authorized to do business within this Commonwealth.

(2) Having or maintaining an agent of general or restrictive authority irrespective of whether the agent is located permanently or temporarily or authorized to do business within this Commonwealth.

(3) Maintaining a stock of goods in this Commonwealth.

(4) Regularly soliciting orders through a solicitor, salesman, agent or representative, whether or not the orders are accepted in this Commonwealth, or performing promotional activities in this Commonwealth.

(5) Regularly engaging in the delivery of property, other than by common carrier or United States mail, and soliciting business, whether by means of United States mail, radio, television, newspaper or otherwise in this Commonwealth.

(6) Regularly engaging in an activity in connection with the leasing or servicing of property which is located within this Commonwealth.

"Notice to proceed." A notice issued to a manufacturer or a group of manufacturers announcing the approval of an individual alternative plan or a joint alternative plan for a county or counties pending receipt of all required documentation and executed contractual commitments outlined in the individual alternative plan or joint alternative plan.

"Orphan electronic equipment." Electronic equipment for which no manufacturer can be identified.
"Peripheral." A keyboard, printer, scanner, fax machine, speaker or other peripheral, digital video disc player, video cassette recorder and video display equipment with a screen greater than six inches. The term does not include adaptive or assistive technologies.

"Peripheral manufacturer." A person that is a manufacturer of peripherals.

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

"Processing." The term includes shredding, disassembly, size reduction, separation, smelting, retorting, extraction and melting.

"Processor." A person that processes waste electronic equipment or any of its components.

"Procurement." Purchasing, renting, leasing, licensing or otherwise acquiring supplies, services or construction. The term includes all functions relating to the obtaining of any supply, service or construction, including a description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of the contract administration.

"Purchase." The transfer of property from one to another through agreement or sale.

"Recovery." The act of refurbishing, recycling or processing waste electronic equipment to extend the use or value of the original electronic equipment, its components and whatever residual materials remain.

"Recycler." A person that performs recycling of waste electronic equipment.
"Recycling." A method by which waste electronic equipment that would otherwise become solid waste or hazardous waste is 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.

"Refurbish" or "refurbishment." To transform used or unused waste electronic equipment, including components, into fully functional electronic equipment for reuse. This includes cleaning, data sanitization, software and hardware changes or upgrading, fixing hardware faults, replacing or removing faulty or unwanted components, remanufacturing, removal of identifying labels or stickers and repurposing.

"Refurbisher." A person that refurbishes waste electronic equipment.

"Retailer." A person with a nexus that offers electronic equipment for sale by any means in this Commonwealth, other than for resale by a consumer.

"Retail sales." The sale of electronic equipment by a retailer.

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

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

"Site operator." A person that operates a convenience center.

"State default plan." The plan developed by the department, or its agent, for infrastructure development, collection,
consolidation, transportation and recovery of waste electronic equipment throughout this Commonwealth. The plan outlines administrative, financial and operating duties and identifies the entities responsible for each.

"Television." Electronic equipment which 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 a direct view or projection television with a viewable screen of four inches or larger with display technology that 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 mobile phone.

"Television manufacturer." A person that is a manufacturer of televisions.

"Transportation." The transfer of waste electronic equipment from a convenience center to a recycler, refurbisher, processor or end management facility.

"Transporter." A person that provides transportation.

"Treatment." A method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of waste to neutralize the waste or to render the waste nonhazardous, safer for transport, suitable for recovery, suitable for storage or reduced in volume. The term includes an activity or process designed to change the physical form or chemical composition of waste to render it neutral or nonhazardous.

"Voluntary take-back program." A self-initiated program by a
manufacturer that accepts waste electronic equipment for
cycling or refurbishment from a customer.

"Waste electronic equipment." A television, computer,
monitor or peripheral which a consumer returns to a collection
site or a curbside collection program that replaces a collection
site.

"Waste electronic equipment fee." A fee which is paid to a
retailer by the consumer at the time of original purchase of
electronic equipment to offset the cost of administration and
enforcement of this act and support the development of the
convenience center infrastructure.

CHAPTER 3
ENVIRONMENTALLY SOUND
MANAGEMENT REQUIREMENTS

Section 301. Management standards.
All waste electronic equipment under this act:
(1) Shall be managed in a manner that complies with all
applicable Federal, State and local laws, regulations and
ordinances.
(2) May not be exported out of the United States for
recycling, processing or disposal in a manner that poses a
significant risk to the public health or the environment.

Section 302. Disposal ban.
(a) General rule.--No person may place in municipal solid
waste any waste electronic equipment or any of its components,
except nonhazardous residuals produced during recycling or
processing in a solid waste disposal facility and as provided in
section 303.
(b) Violation.--An owner or operator of a solid waste
disposal facility shall not be found in violation of this
section if the owner or operator has:

(1) Made a good faith effort to comply with this section.

(2) Posted in a conspicuous location at the facility a sign stating that waste electronic equipment or any of its components are not accepted at the facility.

(3) Notified, in writing, all collectors registered to deposit solid waste at the facility that waste electronic equipment or its components are not accepted at the facility.

(4) A program in which waste electronic equipment is diverted to another area of the facility for consolidation and transportation.

(c) Definition.--For purposes of this section, the term "facility" shall have the same meaning given to it in section 103 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act. The term does not include a transfer station.

Section 303. Glass management.

(a) Leaded glass.--Leaded glass resulting from the processing and recycling of waste electronic equipment may be managed by a facility permitted for the management, storage or disposal of discarded materials provided that the leaded glass meets the waste acceptance plan or processing criteria specified in the facility's permit conditions.

(b) Limitation.--For land disposal, dedicated retrievable cells or alternate cover, the leaded glass must not exceed the United States Environmental Protection Agency's lead concentration limits for Sub-Title D facilities.

(c) Other hazardous or toxic metals.--When design and technological changes in the glass utilized in electronic
equipment result in other hazardous or toxic metals of equal
environmental concern as lead, as determined by the department,
subsections (a) and (b) shall apply for each.

Section 304. Operating requirements.

(a) General rule.—An entity shall comply with all Federal,
State and local laws and obtain all permits, licenses and
authorizations necessary for the entity's operations to engage
in the collection, consolidation, transportation, refurbishment,
recycling, processing and disposal of waste electronic
equipment.

(b) General permit.—Recyclers of waste electronic equipment
shall obtain the applicable general permit from the department
or, if located in another state, meet the same standards
required in the department's general permit.

(c) Convenience centers.—Convenience centers shall meet the
operating and safety standards established by the department.

CHAPTER 4

CONSUMER FEES AND CHARGES

Section 401. Discarded electronic equipment.

No consumer shall be charged for the collection,
consolidation, transportation and recovery of waste electronic
equipment returned except as provided in sections 503(c)(1)(iii)
(A) and (d)(3)(ii)(A) and 511(b)(3).

Section 402. Waste electronic equipment fee.

For all purchases of electronic equipment, a seller shall
collect a waste electronic equipment fee at the time of sale.
The fee shall be equal to 0.5% of the full retail purchase
price, excluding sales tax, and will be used for the purposes
provided in this act.
WASTE ELECTRONIC EQUIPMENT MANAGEMENT SYSTEM

Section 501. Applicability.
The collection, consolidation, transportation and recovery provisions of this act shall apply to waste electronic equipment used by and collected from a consumer residing in this Commonwealth.

Section 502. Existing infrastructure.
(a) Use.--The collection, consolidation, transportation and recovery system under this section shall use, if possible, the existing collection, consolidation, transportation and recovery infrastructure operating within this Commonwealth for handling waste electronic equipment, including:
   (1) Electronic recyclers and refurbishers.
   (2) Local governments, not-for-profit corporations and other suitable operations engaged in collection, consolidation or transportation of waste electronic equipment.
(b) Local governments.--Counties, municipalities and municipal authorities are not required to act as collectors and consolidators, but may enter agreements to serve in that capacity.

Section 503. State default plan.
(a) Development.--The department, or a person delegated, assigned or with a contract to perform duties relating to the disposal of waste electronic equipment under the supervision of the department, shall develop a system, known as the State default plan, for collection, consolidation, transportation, processing and final management of waste electronic equipment.
(b) Provision of services.--The State default plan shall provide services to all counties not covered under an approved
individual alternative plan or joint alternative plan under this act.

(c) Convenience centers.--

(1) The State default plan shall include the following requirements:

(i) One convenience center location in each county of this Commonwealth.

(ii) A convenience center shall collect all waste electronic equipment without restriction as to type or manufacturer.

(iii) A convenience center shall be open to accept all waste electronic equipment at hours convenient to the public at a minimum of once per month throughout the full program year and may provide:

(A) Pickup of waste electronic equipment at a consumer's home on an as-needed basis. A service fee may be charged, which shall not include the cost of recycling and processing.

(B) Pickup of waste electronic equipment collected at a municipal satellite center.

(iv) A convenience center shall be sufficiently staffed for and designed to accept waste electronic equipment and facilitate safe access and unloading of consumer vehicles.

(v) A convenience center shall be sufficiently staffed for the consolidation of the waste electronic equipment and to prepare it for transportation.

(vi) A convenience center shall be designed to allow for safe loading of transport trailers or other long-haul transport vehicles appropriate for the location and to
provide proper storage of a minimum of a full truckload of the waste electronic equipment.

(vii) A convenience center must be publicized in sufficient detail and frequency to allow consumers to learn how to return waste electronic equipment. Print, radio and television advertising shall specify an Internet website address or toll-free telephone number that provides information about the location, hours of operation and the items accepted for collection.

(2) Where the collection of waste electronic equipment is anticipated to be low in volume, a county may, rather than operate a convenience center:

(i) Operate a satellite center for the collection of waste electronic equipment under subsection (d).

(ii) Enter into an intergovernmental agreement with a convenience center in a neighboring county to accept waste electronic equipment from the satellite center.

(iii) Transport the waste electronic equipment from the satellite center to the convenience center.

(iv) Enter into an agreement with a convenience center, a municipality, an authority or a nonprofit organization to operate a satellite center.

(d) Municipal satellite centers and curbside collection programs.--

(1) The State default plan shall not prevent a municipality from operating a satellite center or a curbside collection program for the collection of waste electronic equipment.

(2) Satellite centers shall meet all the criteria for a convenience center in subsection (c) except subsection (c)(1)
(v) and (vi) regarding material handling. The following shall apply:

(i) materials from the satellite center shall be:

(A) delivered by the municipality to the convenience center for consolidation and transportation;

(B) removed from the satellite center and transferred to the convenience center for consolidation and transportation by the convenience center site operator; or

(C) if agreed to in advance, delivered by the municipality directly to the contractor designated for the county under either the State default plan, individual alternative plan or a joint alternative plan.

(ii) (Reserved).

(3) A municipality may implement a curbside collection program that:

(i) Collects all waste electronic equipment without restriction to type, brand, size or manufacturer.

(ii) Provides throughout the calendar year a minimum of one regularly scheduled collection per month. The following shall apply:

(A) A collection service fee for each item of waste electronic equipment collected may be charged to the consumer for the curbside pickup.

(B) The service fee shall be established in advance.

(C) The service fee shall not include the cost of recycling and processing.
(D) A consumer that does not place items at the curbside for collection shall not be charged.

(iii) A municipality that opts to offer curbside collection using a commercial service provider shall conduct its own competitive bid process to establish the fee for the collection services.

(iv) The items collected under a municipality's curbside collection program shall be:

(A) delivered by the collector to the convenience center of the county in which the municipality is located; or

(B) if agreed to in advance, directly delivered to the contractor designated for the county under either the State default plan, individual alternative plan or a joint alternative plan.

(4) Nothing in this section shall prevent a county, municipal authority or municipality to conduct one-day collection events for waste electronic equipment, provided it meets the criteria of subsection (c)(1)(iv) and section 401.

(5) A manufacturer shall have no financial obligation to compensate a county, municipal authority or municipality for the cost of the programs and services under paragraph (2), (3) or (4).

(6) Materials under paragraph (2)(i)(A), (B) and (C) and (3)(iv)(A) and (B) shall be factored into the manufacturers' financial obligation for the cost of collection, consolidation, transportation, recovery, recycling and processing whether the county convenience center is part of the State default plan, individual alternative plan or a joint alternative plan.
Section 504. Grant funding for convenience center development.

(a) Grant program.--To support the creation of a Statewide collection and consolidation infrastructure for waste electronic equipment, a grant program shall be offered and funded through money in the fund.

(b) Eligibility.--Grant funding shall be limited to the following:

1. The initial development, construction or renovation of land and structures owned by a county, municipal authority or municipality to establish a convenience center in the county.
2. Start-up and replacement equipment for consolidating, moving, lifting, loading and weighing waste electronic equipment.
3. Vehicles to collect waste electronic equipment from satellite centers.
4. To repair or expand convenience centers once established.
5. When and if sufficient money is available in the fund, improvements to satellite centers.

Section 505. Convenience Center Network.

(a) Establishment.--To establish the network of convenience centers in the State default plan, within 90 days of the effective date of this section, the department or its agent shall issue to counties and municipal authorities a Request for Expression of Interest (RFEI) to host and operate a convenience center required by this act.

(b) Based on the responses to the RFEI, the department or its agent shall:

1. Identify the location of land or buildings owned by
a county, municipal authority or municipality that meet or
could be renovated to meet the site design and operating
criteria for convenience centers.

(2) Determine the convenience centers which will be
operated by the local government and those that will be owned
by local government but operated by a contractor. A county or
a municipal authority may designate a nonprofit organization
to operate a convenience center.

(3) Identify the municipalities desiring to establish
satellite centers or implement curbside collection programs.

(4) Where no local-government-owned property is
available, determine sites that meet the design and operating
criteria for convenience centers and that could be
established by nonprofit organizations, retailers or private
businesses.

Section 506. Transportation and recovery of waste electronic
equipment from convenience centers.

The State default plan shall include:

(1) A method of transportation and resources sufficient
to handle the volume and frequency of consolidated waste
electronic equipment from the convenience centers to the
point of recycling or processing in a timely manner.

(2) The name, address and contact information of the
transporter that will provide the services.

(3) A recovery method for processing, treatment,
recycling or refurbishment, and a final management and
resources and capacity sufficient to receive and handle the
volume and frequency of consolidated waste electronic
equipment transported from convenience centers.

(4) The names, addresses and contact information of the
recyclers, processors, refurbishers and other management
facilities that will provide the services utilized.

Section 507. Procurement of services for State default plan.
(a) Duties of department.--The department or its agent shall
develop the service specifications to procure services necessary
to operate the State default plan.
(b) Invitation to bid.--By August 30, 2018, and on the same
date every three years thereafter, in coordination with the
Department of General Services, the department shall issue an
invitation to bid in accordance with 62 Pa.C.S. § 512 (relating
to competitive sealed bidding) to collect, transport and recycle
and process the waste electronic equipment collected at
convenience centers, including the management of residuals
resulting from the process.
(c) Services.--Site operation, transportation, processing
and recovery shall be considered integrated services for bidding
purposes.
(d) Rates.--
(1) When a county or municipal authority is the operator
of a convenience center, the county or municipality shall be
considered a contractor with the same flat rate per pound for
site operation. The county's rate shall be shown as a
separate line item not factored into the bidder's price. The
county or municipal authority assigned rate will be added to
the successful bidder's price to calculate the total cost per
pound and the projected total cost per site. The total
projected cost per site will be used to calculate the initial
manufacturer's financial obligation.
(2) The county's flat rate per pound will be determined
by an independent committee of waste electronic equipment
stakeholders selected by the department and will be based on
the average industry cost calculated to provide the minimum
standard site operating criteria established under this act.
Any additional cost for collecting and transferring waste
electronic equipment from a satellite center to a convenience
center shall not be included and may be negotiated between
the convenience center and the satellite center.
(e) Solicitation of bids.--The department may solicit bids
for the integrated services on a per-county or regional basis
depending on needs and circumstances. Single bids to provide
Statewide service shall not be solicited.
(f) Requirements.--Qualified contractors and subcontractors
shall meet the same standards and criteria required under
section 506.
(g) Awarding bids.--Bids shall be awarded as provided under
62 Pa.C.S. § 512 for one-third of the sites no later than
October 30, 2018, for one-third of the sites no later than
November 30, 2018, and for the final one-third of the sites no
later than December 30, 2018, and on the same day every three
years thereafter.
(h) Commencement of services.--Service shall commence on
January 1, 2019, for contracts awarded on October 30, on
February 1, 2019, for contracts awarded on November 30 and on
March 1, 2019, for contracts awarded on December 30, 2019, and
on the same day every three years thereafter.
Section 508. Qualifications of service providers.
(a) Requirements.--A contractor and its subcontractors must
have the skills, experience, qualifications and resources to
perform the duties required under this act.
(b) Site operators.--Site operators shall:
(1) Meet all Federal, State and local laws and maintain current registrations, licenses and insurances.

(2) Have sufficient equipment in good working order and trained personnel to provide reliable and timely collection and consolidation of waste electronic equipment at convenience centers.

(c) Transporters.--Transporters shall:

(1) Meet all Federal, State and local laws and maintain current registrations, licenses and insurances.

(2) Have sufficient equipment in good working order and trained personnel to provide reliable and timely transfer of waste electronic equipment collected and consolidated at convenience centers.

(d) Recyclers, processors and refurbishers.--Recyclers, processors and refurbishers shall:

(1) Demonstrate proof of certifications, permits, licenses or other authorizations equivalent to those required by this Commonwealth for service providers to perform activities under this act.

(2) Provide a detailed description of the processes that will be used to recycle, process or refurbish the waste electronic equipment.

(3) Provide a specific plan to manage CRT leaded glass. The following shall apply:

(i) The plan shall provide for processing, treatment recycling or, alternatively, final management in accordance with all applicable Federal and State laws, within one year.

(ii) If direct use of the glass is to be used in a manufacturing process, the department shall approve or
disapprove this end use and provide public notification of the same.

(iii) The plan shall identify each service provider in the chain of management of the CRT leaded glass.

(iv) The name, location and contact information of the service provider.

(v) Proof of certifications, permits, licenses or other authorizations required for the service provider to perform activities under this act.

(vi) A detailed description of the processes that will be used to recycle, process, treat or manage CRT leaded glass.

(vii) When design and technological changes in the glass utilized in electronic equipment result in other hazardous or toxic metals of equal environmental concern as lead, as determined by the department, the plan shall also include a description of how they will be managed.

Section 509. Alternatives to State default plan.

(a) Other plans.--Beginning on January 1, 2018, and no later than March 15, 2018, and on the same dates every three years thereafter, a manufacturer or a group or groups of manufacturers may petition the department with an individual alternative plan or a joint alternative plan to fully fund and operate the collection, consolidation, transportation and recovery systems on a countywide basis in a specific county provided the county has given consent and expressed an intent to enter an agreement with a manufacturer. The following shall apply:

(1) For an individual alternative plan, the petition must include a statement executed by an officer or authorized representative of the manufacturer which commits the
manufacturer to operate and fund the individual alternative plan and the remaining share of the State default plan.

(2) For a joint alternative plan, the petition must include a legally binding agreement that establishes the commitment of each participant in the joint alternative plan to operate and fund the joint alternative plan and the remaining share of the State default plan.

(3) An agreement for a joint alternative plan must be executed by an officer or an authorized representative of each of the manufacturers participating in the joint alternative plan.

(b) Participation requirements.--An individual manufacturer with less than a 10% market share and who is not part of a joint alternative plan with a combined participant market share of 10% must fully participate in the State default plan.

(c) Liability.--A manufacturer participating in an individual alternative plan or joint alternative plan individually and collectively assumes the full environmental and pollution liability for collection, consolidation, transportation, recycling, processing and final management of the waste electronic equipment collected under the individual alternative plan or joint alternative plan.

(d) Plan criteria.--Individual alternative plans and joint alternative plans shall follow the same three-year cycle as the State default plan and shall meet all the criteria of the State default plan and meet the following conditions:

(1) Each plan shall specify each county giving consent and approval of the individual alternative plan or joint alternative plan which would assume responsibility of operation in the county.
(2) Where identified by the department's RFEI, the individual alternative plan or joint alternative plan shall enter a legally binding agreement with the county or municipal authority to do the following:

(i) Pay the county or municipal authority for the cost in operating the convenience center or compensate the county or municipal authority for use of the convenience center and perform the duties with other site operators.

(ii) At no cost to the county or municipal authority, remove, transport, recycle and process all waste electronic equipment received and consolidated at the convenience center.

(iii) Compensate the county or municipal authority for the cost to deliver waste electronic equipment from satellite centers to a convenience center.

(3) Where county or municipal authority sites are not available, the individual alternative plan or joint alternative plan will be responsible for all costs associated with establishing and operating a convenience center, compensating a municipality for waste electronic equipment delivered from satellite centers and removing, transporting, recycling and processing all waste electronic equipment received and consolidated at a convenience center.

(4) For each county, the individual alternative plan or joint alternative plan shall identify the specific service providers and each service provider's role in handling waste electronic equipment from that county, as well as the information required under sections 504 and 506.

(5) The individual alternative plan or joint alternative
plan shall also include information demonstrating the process by which the individual alternative plan or joint alternative plan will attain and document in the first year the minimum pounds per capita recovery goal for waste electronic equipment established by the department for each specified county.

(e) Discount.--If the individual alternative plan or joint alternative plan meets or exceeds the minimum per capita recovery goals for the county established by the department, the manufacturer or group of manufacturers shall receive the discount under section 607(b) credited toward its financial obligations for the State default plan in the next year.

Section 510. Approval of alternative plans.

(a) Department review.--The department shall review an individual alternative plan or joint alternative plan submitted under section 509 and, within 60 days of receipt of the plan, determine whether the plan complies with the provisions of Chapter 5.

(b) Notice to proceed.--If the department approves the individual alternative plan or joint alternative plan, the department shall notify the manufacturer or group of manufacturers with a notice to proceed.

(c) Multiple submissions.--If more than one individual alternative plan or joint alternative plan is submitted for the same county, the department shall rate the proposed plans based on the quality and methodology to meet the criteria under Chapter 5 and to attain the desired goals. The individual alternative plan or joint alternative plan with the highest rating will be issued a notice to proceed.

(d) Submission of agreements.--Within 60 days of receipt of
the notice to proceed, the manufacturer or group of
manufacturers of the individual alternative plan or joint
alternative plan shall submit to the department copies of
executed agreements with all collection, consolidation,
transportation and recovery service providers listed in the
individual alternative plan or joint alternative plan.

(e) Rejection.--If the department rejects the individual
alternative plan or joint alternative plan, the department shall
notify the manufacturer or group of manufacturers and provide
the reasons for the plan's rejection. Rejection of a plan shall
be based on the plan's failure to meet the criteria under this
subsection. The following shall apply:

(1) Within 30 days after receipt of the department's
rejection, the manufacturer or group of manufacturers may
revise and resubmit the individual alternative plan or joint
alternative plan to the department for approval.

(2) The department shall review and approve or deny the
revised individual alternative plan or joint alternative plan
within 30 days of receipt of resubmission.

Section 511. Take-back programs.

(a) General rule.--A manufacturer may implement a voluntary
take-back program in which a consumer may return waste
electronic equipment for recycling or refurbishment. A voluntary
take-back program is not a substitute for, nor does it qualify
as, an individual or joint alternative plan.

(b) Programs.--A voluntary take-back program:

(1) May receive waste electronic equipment from a
consumer at brick and mortar locations or through the United
States Postal Service or other commercial delivery services.

(2) May establish its own operating hours and frequency
of collection.

(3) May collect a handling fee from a consumer who utilizes the voluntary take-back program to manage the consumer's waste electronic equipment.

(4) Shall accept all waste electronic equipment regardless of type, brand, manufacturer or size.

(c) Restrictions.--Waste electronic equipment collected in a take-back program:

(1) May not be delivered to a satellite center or a convenience center for consolidation and transportation.

(2) May not be factored into the manufacturer's financial obligation under the State default plan.

(3) Shall be managed in accordance with all Federal, State and local laws and regulations.

(d) Discount.--Up to 10% of the waste electronic equipment received through the voluntary take-back program and for which there was no handling fee may be calculated under section 607 (b)(2). To be eligible for a discount under section 607(b)(2) (ii), proof is required for the consumer transactions and for the waste electronic equipment documentation of transportation and recovery, both in the format established by the department.

CHAPTER 6

RESPONSIBILITIES OF MANUFACTURERS

Section 601. Registration.

(a) Requirement.--Before a manufacturer may offer electronic equipment for sale in this Commonwealth, the manufacturer must register with the department.

(b) Filing.--On or before September 1, 2017, or six months after the effective date of this section, whichever is later, if a manufacturer has not previously filed a registration under the
act of November 23, 2010 (P.L.1083, No.108), known as the
Covered Device Recycling Act. The manufacturer shall file a
registration as prescribed by the department 60 days prior to
any offer for sale or delivery of the manufacturer's new
electronic equipment.

(c) Renewal.--A registered manufacturer shall submit an
annual renewal of its registration as prescribed by the
department on or before September 1 each year. The registration
and each annual renewal shall include a list of all brands the
manufacturer is using on its electronic equipment regardless of
whether the manufacturer owns or licenses the brand and shall be
effective upon receipt by the department.

Section 602. Brands with multiple manufacturers.

(a) Multiple manufacturers.--Where more than one person may
be deemed the manufacturer of a brand of electronic equipment in
accordance with this act, any one or more persons may assume
responsibility for and satisfy the obligations of a manufacturer
with respect to waste electronic equipment bearing that brand.

(b) No responsible person.--If no person assumes
responsibility for and satisfies the obligations of a
manufacturer under this act with respect to electronic equipment
bearing that brand, for purposes of compliance with these
provisions, the responsible party shall be the person who
satisfies the definition of manufacturer under Chapter 2 or the
electronic equipment will be deemed by the department to be
orphan waste electronic equipment.

(c) Liability.--Nothing in this act shall be construed to
exempt a person from liability that a person would otherwise
have under applicable law.

Section 603. Brand identification.

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No manufacturer or retailer may sell new electronic equipment unless it is labeled with the manufacturer's brand, whether owned or licensed.

Section 604. Declaration of plan participation.

(a) Participation requirement.--A manufacturer shall participate in a State default plan, established by the department or its agent, or enter an individual alternative plan or joint alternative plan that meets the requirements for the collection, consolidation, transportation and recovery systems under Chapter 5.

(b) Declaration of intent.--At the time of registration and renewal or by June 1, whichever comes sooner, during the year pending the expiration of the three-year service provider contracts for the State default plan, each manufacturer shall declare its intent for the upcoming three-year cycle to participate in a State default plan, or enter an individual alternative plan or a joint alternative plan.

Section 605. Financial obligation of manufacturer.

(a) Costs.--A manufacturer shall cover the full cost under the State default plan for collection, consolidation, transportation, recovery and final management of all waste electronic equipment used by and collected from consumers except as provided for in sections 402 and 503(c)(1)(iii)(A) and (d).

(b) Determination.--The total costs shall be determined by a competitive sealed bidding process.

(c) Allocation.--The total costs shall be allocated proportionately to each manufacturer as follows:

(1) Manufacturers shall submit the total approximate weight of electronic equipment which they sold nationally in the previous calendar year.
The department shall establish the percentage of the total population of the United States that is represented by Pennsylvania.

(3) Using the population as an indicator of sales, the percentage calculated in paragraph (2) shall be applied to the weight of each manufacturer's total sales to determine the weight of the waste electronic equipment sold in Pennsylvania.

(4) Each manufacturer's weights shall be added together to determine the cumulative weight of waste electronic equipment sold.

(5) The financial obligation for each manufacturer shall be allocated based on its percentage of the cumulative total weight of all manufacturers' waste electronic equipment.

(6) The financial obligation includes the costs for collection, consolidation, transportation, recovery and final management for all waste electronic equipment regardless of type, brand or manufacturer, including orphan electronic equipment for which the manufacturer may no longer exist.

Section 606. Methods and schedule of payments for State default plan.

(a) Deposit of funds.--Funds for the State default plan shall be submitted to the department and deposited into the account.

(b) Payments.--The following shall apply:

(1) On or before February 15, 2019, a manufacturer shall submit for deposit 35% of its allotted financial obligation for the total estimated cost of the geographic areas remaining in the State default plan for the next program year, as determined by the department or its agent.
(2) On or before May 15, 2019, and on the same day every year thereafter, a manufacturer shall submit for deposit 35% of its allotted financial obligation for the total estimated cost of the State default plan as determined by the department or its agent.

(3) On or before August 15, 2019, and on the same day every year thereafter, a manufacturer shall submit for deposit 15% of its allotted financial obligation for the total estimated cost of the State default plan as determined by the department or its agent.

(4) On or before November 15, 2019, and on the same day every year thereafter, a manufacturer shall submit for deposit 15% of its allotted financial obligation for the total estimated cost of the State default plan as determined by the department or its agent.

(5) On or before January 15, 2020, and on the same day every year thereafter, the department or its agent will determine whether a deficit or an overage will occur in the account and shall notify the manufacturer of any adjustments that will be due in its February 15 payment installment or any amounts that may be credited toward the next program year.

(6) On or before February 15, 2020, and every year thereafter, a manufacturer shall submit for deposit 35% of the manufacturer's allotted financial obligation for the total estimated cost of the State default plan for the next program year, based on the cost of pounds collected in the previous year plus or minus any adjustments, as determined by the department.
(a) Adjustments.--Adjustments for section 606(b)(5) shall be based on the following:

   (1) The actual cost of collecting waste electronic equipment in the State default plan throughout the year.

   (2) Reductions in financial obligations credited to individual alternative plan or joint alternative plan participants.

   (3) Increases in financial obligations to State default plan participants that may result from individual alternative plan or joint alternative plan credits.

(b) Credits.--Credits from section 509(e) shall be applied as follows:

   (1) If the individual alternative plan or joint alternative plan meets the per capita goals for its county established by the department, the manufacturer or group of manufacturers will receive a discount toward its financial obligation for the State default plan.

   (2) The discount shall be determined by the following:

      (i) Totaling all pounds of waste electronic equipment collected in this Commonwealth from the State default plan, all individual alternative plans and all joint alternative plans.

      (ii) Dividing the pounds from the individual alternative plan or the joint alternative plan by the total tons collected to determine each plan's percentage of the total.

      (iii) The percentage represented by the individual alternative plan or the joint alternative plan shall be applied as a deduction to the original financial obligation allotted to the manufacturer or the group of
manufacturers for the State default plan.

(c) Costs.--The manufacturer or group of manufacturers in
the individual alternative plan or joint alternative plan shall
be responsible for covering the cost of whatever remaining
percentage of the manufacturer's original allotted financial
obligation remains to the State default plan after the discount
has been applied.

Section 608. Reporting.

(a) General rule.--The manufacturer shall submit an annual
report to the department with its initial registration and on or
before March 1 each year thereafter.

(b) Brands.--The manufacturer's annual report shall include
information for all brands under which its electronic equipment
is offered for sale, regardless of whether the manufacturer owns
or licenses the brand.

(c) National sales data.--The report shall consist of an
estimate of the total weight of the manufacturer's electronic
equipment sold to consumers nationally during the previous year.
National sales data submitted by a manufacturer to the
department to determine and fulfill its obligations shall be
exempt from disclosure under the provisions of the act of
February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
and shall not be disclosed by the department unless otherwise
required by law or court order.

(d) Quarterly reports.--When a manufacturer or group of
manufacturers participates in an individual alternative plan or
joint alternative plan, the manufacturer or group of
manufacturers shall submit a quarterly report to the department
on or before February 1, May 1, August 1, December 1 and on the
same day each year thereafter. The reports shall be organized by
county and provide the following:

(1) The total weight for each type of waste electronic equipment collected during the previous quarter in each county.

(2) Documentation verifying the date and the weight waste electronic equipment transported from the convenience center.

(3) Documentation verifying date, name and location of the recycler or processor and the weight of the waste electronic equipment received.

CHAPTER 7

RESPONSIBILITIES OF RETAILERS

Section 701. Duty of retailers to consult list.

(a) General rule.--Beginning no later than 12 months after the effective date of this section, a retailer of new electronic equipment to be offered for sale in this Commonwealth shall consult the list prior to selling new electronic equipment in this Commonwealth.

(b) Compliance.--A retailer shall be considered to have complied with subsection (a) if, on the date that the new electronic equipment was ordered by the retailer, the brand was on the list of registered manufacturers and is posted on the publicly accessible Internet website identified in section 801(a)(1).

(c) Collection of fee.--Retailers shall collect the waste electronic equipment fee under section 402.

(d) Submission of fees.--No later than the 15th day of each month, a retailer shall submit the total fees collected for electronic equipment sold in the previous month, less 1¢ per item for the retailer's cost in administering the fee. Retailers
shall submit the fees to the department to be deposited into the
fund.

(e) Quarterly report.--On or before January 31, April 30,
July 31 and October 31 a retailer shall submit a quarterly
report to the department or its agent that includes the
quantities of each type of electronic equipment sold in the
previous quarter and the fees collected for each.

CHAPTER 8
RESPONSIBILITIES OF
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Section 801. Duties of department.

(a) General rule.--The department shall perform the
following duties:

(1) Compile and maintain a list of each registered
manufacturer, the brands of all waste electronic equipment
reported in each manufacturer's registration and the brands
of waste electronic equipment for which no manufacturer has
registered and post the list on the department's publicly
accessible Internet website. The list shall be updated within
60 days after receipt of a new manufacturer registration or
the manufacturer's annual renewal.

(2) Encourage the use of the existing collection and
consolidation infrastructure for handling waste electronic
equipment to the extent that the infrastructure is accessible
on a regular basis to the entire population of this
Commonwealth, is cost effective and meets the environmentally
sound management requirements under Chapter 3.

(3) Develop and implement the State default plan for
collection, consolidation, transportation and recovery under
Chapter 5.
(b) Delegation of duties.--The department may assign, delegate to or contract with another person, agency or organization to perform one or more of the duties related to the development and implementation of the State default plan under the supervision of the department, including, but not limited to, the following:

(1) identifying existing or potential locations for convenience centers and satellite centers;

(2) identifying how counties, municipalities, nonprofit organizations and other service providers may be utilized as part of the collection, consolidation, transportation and recovery system;

(3) designing specifications, contracts and service agreements;

(4) coordinating the solicitation and making recommendations to the department for awarding bids for services needed to implement the collection, consolidation, transportation and recovery system;

(5) serving as the primary liaison between the convenience centers and the transporters and the recyclers and processors to the collection, consolidation, transportation and recovery system;

(6) reviewing and making recommendations to the department for all individual alternative plans and joint alternative plans submitted by a manufacturer or group of manufacturers for the collection, consolidation, transportation and recovery of waste electronic equipment; and

(7) coordinating the implementation of all approved individual alternative plans and joint alternative plans and
informing the department when action is required to ensure
compliance with approved plans.

Section 802. Annual report.

(a) General rule.--The department shall prepare and submit
annually to the General Assembly and post on its publicly
accessible Internet website a report that includes:

(1) The total weight of waste electronic equipment
collected in this Commonwealth during the previous calendar
year.

(2) A complete listing of all convenience centers,
satellite centers and curbside collection programs operating
in this Commonwealth during the prior calendar year, whether
they were part of the State default plan or an individual
alternative plan or a joint alternative plan, the parties
that operated them and the types and amounts of material by
weight collected at each.

(3) An evaluation of the effectiveness of the education
and outreach program conducted by the convenience centers,
satellite centers, curbside collection programs and the
department.

(4) An evaluation of the existing collection,
consolidation, transportation and recovery infrastructure.

(b) Recommendations.--Every three years, the annual report
shall include recommendations for the following:

(1) Any improvements to the program.

(2) The inclusion of additional electronic equipment.

(c) Analysis of recommendations.--Recommendations shall be
accompanied by an analysis of the positive and negative aspects
along with a cost benefit analysis of the recommendations.

Section 803. Additional duties.
The department shall do the following:

(1) Maintain a publicly accessible Internet website and a toll-free telephone number complete with up-to-date listings of where consumers may take waste electronic equipment for recovery under this act.

(2) No more than annually and no less than biennially, review the amount of the waste electronic equipment fee. The Environmental Quality Board may promulgate regulations to adjust fees so that the fees generate sufficient revenue reasonably necessary to administer the provisions of this act.

CHAPTER 9
ENFORCEMENT AND PENALTIES

Section 901. Judicial action.

(a) Enforcement.--This Commonwealth, through the Attorney General or the department, may initiate independent action to enforce any provision of this act.

(b) Expenses.--Any funds awarded by a court shall be used first to offset enforcement expenses. Money in excess of the enforcement expenses shall be deposited into the fund when appropriate and used to support activities under this act.

Section 902. Penalties.

(a) Failure to label.--A manufacturer who fails to label its new electronic equipment with a brand, as required by section 603, or who fails to register with the department under sections 601 and 602, or who fails to submit payments in accordance with the criteria and schedule under section 606 may be assessed a penalty of up to $10,000 for the first violation and up to $25,000 for the second and each subsequent violation in addition to paying for any fees, payments and penalties imposed under...
this act. For a violation of section 606, a late fee of 5% of
the amount due may be assessed in addition to the other
penalties.
(b) Violations.—Except as otherwise provided under
subsection (a), a person, including a retailer, who violates a
requirement of this act may be assessed a penalty of up to
$1,000 for the first violation and up to $2,000 for the second
and each subsequent violation, in addition to paying for any
fees, payments and penalties imposed under this act.
(c) Plan criteria.—A manufacturer participating in approved
individual alternative plans or joint alternative plans that
fails to meet the criteria of the approved individual
alternative plan or joint alternative plan shall:
(1) Forfeit any credits or discounts that may have been
applied to their obligations for the State default plan.
(2) Be assessed a fee equal to the quantity of the unmet
portion, in pounds, plus an additional 10% of that quantity,
multiplied by the cost per pound for collection,
consolidation, transportation and recovery of waste
electronic equipment established in the State default plan.
(d) Payments.—Payments of fees shall be as follows:
(1) Payments collected under subsection (c)(2) shall be
deposited into the account and shall be used to fund the cost
of reestablishing the geographic area into the State default
plans and collecting the unmet portion of pounds proposed in
the individual alternative plans or joint alternative plan.
(2) Penalty money collected under subsections (a) and
(b) shall be deposited into the account and used to support
the activities under this act.
(e) Injunctive relief.—A violation of the sales
prohibitions of this act may be enjoined in an action in the
name of this Commonwealth, brought by the department or the
Attorney General.

Section 903. Regulations.
The Environmental Quality Board may adopt rules and
regulations as shall be necessary for the purpose of
administering this act. The regulations shall be promulgated in
accordance with the act of June 25, 1982 (P.L.633, No.181),
known as the Regulatory Review Act.

CHAPTER 10

PROGRAM FUNDING


(a) Establishment.--The Waste Electronic Equipment Fund is
established in the State Treasury.

(b) Deposit of proceeds.--All proceeds from penalties,
judicial actions and the waste electronic equipment fee under
this act shall be deposited into the fund.

(c) Uses.--The department may expend the money of the fund
for the purpose of:

(1) carrying out the duties imposed on the department or
its agent under this act;

(2) compensation for another person, organization or
agency delegated with some of the department's duties under
the act; or

(3) to support a grant program for the initial cost of
developing, constructing or renovating property owned by a
county, municipality or municipal authority and acquiring
related equipment to meet the minimum criteria for
convenience centers for waste electronic equipment under
section 504.
Section 1002. State Default Plan Account.

(a) Establishment.--The State Default Plan Account is established in the Waste Electronic Equipment Fund.

(b) Deposit of proceeds.--All payments from a manufacturer's obligation to fund the State default plan, including penalties for failure to comply with an approved individual alternative plan or a joint alternative plan, shall be paid into the account.

(c) Uses.--The department or its agent may expend the money from the account for the purpose of:

(1) Paying providers for services rendered under the State default plan.

(2) Paying for services required due to failure of individual alternative plans or joint alternative plans.

CHAPTER 11

MISCELLANEOUS PROVISIONS

Section 1101. Multistate implementation.

The department may participate in the establishment and implementation of a regional, multistate organization or compact to assist in carrying out the requirements of this act.

Section 1102. Expiration.

(a) Federal law.--The secretary shall monitor the enactment of laws by the Congress of the United States to determine if a law has been enacted that establishes a program directed at the collection and recovery of waste electronic equipment.

(b) Notice.--If a law is enacted under subsection (a), the secretary shall publish notice in the Pennsylvania Bulletin. The notice shall include a statement that the effect of the notice is the immediate expiration of this act.

(c) Expiration.--This act shall expire on the date a...
determination by the secretary under subsection (a) is published in the Pennsylvania Bulletin.

Section 1103. Repeal.

The act of November 23, 2010 (P.L.1083, No.108), known as the Covered Device Recycling Act, is repealed.

Section 1104. Notice.

The Department of Environment Protection shall transmit notice of the first contracted day of service of the State default plan to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

Section 1105. Transfer.

Upon the effective date of the repeal under section 1103, all money not expended, encumbered or committed in the Electronic Materials Recycling Account established under section 510 of the act of November 23, 2010 (P.L.1083, No.108), known as the Covered Device Recycling Act, shall be transferred immediately to the State Default Plan Account established under section 1002.

Section 1106. Effective date.

This act shall take effect as follows:

(1) The repeal under section 1103 shall take effect upon publication of notice under section 1104.

(2) The remainder of this act shall take effect immediately.