
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 708 Session of
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McILVAINE SMITH, GERBER AND KORTZ, MARCH 4, 2009

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 12, 2010

AN ACT

1 Establishing a recycling program for certain covered devices;
2 imposing duties on manufacturers and retailers of certain
3 covered devices; providing for the powers and duties of the
4 Department of Environmental Protection and for enforcement;
5 establishing the Electronic Materials Recycling Account in
6 the General Fund; and prescribing penalties.

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

18 CHAPTER 1

19 PRELIMINARY PROVISIONS

20 Section 101. Short title.

21 This act shall be known and may be cited as the Covered
22 Device Recycling Act.

23 Section 102. Definitions.

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

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

29 "Computer." A desktop or notebook computer. The term does
30 not include an automated typewriter, professional workstation,

1 server, mobile telephone, portable handheld calculator, portable
2 digital assistant, MP3 player or other similar device.

3 "Computer manufacturer." A person:

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

6 (2) who sells covered computer devices manufactured by
7 others under its own brand as identified by its own brand
8 label; or

9 (3) who assumes the duties imposed on the computer
10 manufacturer under this act.

11 THE TERM DOES NOT INCLUDE A PERSON WHO MANUFACTURES ONLY
12 PERIPHERAL COMPUTER DEVICES. ←

13 "Consumer." An occupant of a single detached dwelling unit
14 or a single unit of a multiple dwelling unit who has used a
15 covered device primarily for personal or ~~home~~ SMALL business ←
16 use. FOR PURPOSES OF THIS DEFINITION A SMALL BUSINESS IS AN ←
17 ENTITY THAT IS INDEPENDENTLY OWNED OR OPERATED, EMPLOYS 50 OR
18 FEWER PEOPLE, HAS PURCHASED OR LEASED A COVERED COMPUTER DEVICE
19 FROM A COMPUTER MANUFACTURER OR RETAILER AND, BUT FOR THE
20 PROGRAM ESTABLISHED UNDER THIS ACT, WOULD NOT OTHERWISE HAVE
21 ACCESS TO ELECTRONIC RECYCLING PROGRAMS.

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

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

29 (1) a device that is a part of a motor vehicle or any
30 component part of a motor vehicle assembled by or for a

1 vehicle manufacturer or franchised dealer, including
2 replacement parts for use in a motor vehicle;

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

14 (3) a device that is contained within a clothes washer,
15 clothes dryer, refrigerator, refrigerator and freezer,
16 microwave oven, conventional oven or range, dishwasher, room
17 air conditioner, dehumidifier, air purifier or exercise
18 equipment; or

19 (4) any of the following:

- 20 (i) Telephone of any type, including a mobile phone.
- 21 (ii) Personal digital assistant.
- 22 (iii) Global positioning system.

23 "Covered television device." An electronic device that
24 contains a tuner that locks on to a selected carrier frequency
25 and is capable of receiving and displaying television or video
26 programming via broadcast, cable or satellite, including,
27 without limitation, any direct view or projection television
28 with a viewable screen of four inches or larger whose display
29 technology is based on cathode ray tube, plasma, liquid crystal,
30 digital light processing, liquid crystal on silicon, silicon

1 crystal reflective display, light emitting diode or similar
2 technology marketed and intended for use by a consumer primarily
3 for personal purposes. The term does not include a covered
4 computer device OR A MOBILE TELEPHONE. ←

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

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

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

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

15 (3) Achieves human interface through a stand-alone
16 keyboard, stand-alone monitor or other display unit and a
17 stand-alone mouse or other pointing device and is designed
18 for a single user.

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

22 "MANUFACTURER." A COMPUTER MANUFACTURER OR A TELEVISION ←
23 MANUFACTURER.

24 "Market share." An estimate of the total weight of a
25 ~~television~~ manufacturer's sales of covered ~~television~~ devices ←
26 during the previous program year calculated by multiplying the
27 weight of its covered ~~television~~ devices sold nationally times ←
28 the quotient of this Commonwealth's population divided by the
29 national population.

30 "New covered device." A covered device ~~or a covered~~ ←

1 ~~television device~~ that is manufactured after the effective date
2 of this section.

3 "Notebook computer." An electronic, magnetic, optical,
4 electrochemical or other high-speed data processing device
5 which:

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

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

11 (3) Achieves human interface through a keyboard, video
12 display greater than four inches in size and mouse or other
13 pointing device, all of which are contained within the
14 construction of the unit which comprises the notebook
15 computer.

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

17 (5) May include a supplemental stand-alone interface
18 device.

19 (6) May use external, internal or batteries for a power
20 source.

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

23 "Obligated share." The proportion of covered ~~computer~~ ←
24 devices that reflects a manufacturer's ~~returns share or covered~~ ←
25 ~~television devices that reflects a manufacturer's~~ market share
26 responsibility under this act.

27 ~~"Orphan device." A covered computer device for which no~~ ←
28 ~~manufacturer may be identified.~~

29 "Peripheral." A keyboard, printer or any other device sold
30 exclusively for external use with a computer that provides input

1 into or output from the computer. The term does not include
2 adaptive or assistive technologies.

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

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

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

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

17 "Retail sales." The sale of covered devices through sales
18 outlets, via the Internet, mail order or other means, regardless
19 of whether the retailer has a physical presence within this
20 Commonwealth.

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

25 ~~"Return share." The proportion of covered computer devices~~ ←
26 ~~for which an individual manufacturer is responsible to collect,~~
27 ~~transport and recycle.~~

28 ~~"Return share in weight." The total weight of covered~~
29 ~~computer devices for which a manufacturer is responsible to~~
30 ~~collect, transport and recycle.~~

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

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

7 "Television manufacturer." A person who:

8 (1) manufactures covered television devices to be sold
9 under its own brand as identified by its own brand label or
10 BEING sold under a brand it ~~licenses~~; IS LICENSED TO USE; ←

11 (2) sells covered television devices manufactured by
12 others under its own brand as identified by its own brand
13 label; or

14 (3) assumes the duties imposed on a television
15 manufacturer under this act.

16 CHAPTER 3

17 DUTIES OF MANUFACTURERS AND RETAILERS

18 Section 301. Applicability.

19 The collection, transportation and recycling provisions of
20 this act shall apply only to covered devices used by and
21 collected from a consumer in this Commonwealth.

22 Section 302. Sales prohibition.

23 (a) General rule.--No manufacturer and, no later than 12
24 months after the effective date of this section, no retailer may
25 sell or offer for sale in this Commonwealth a new covered device
26 unless the brand is included on the list of registered
27 manufacturers and their brands maintained by the department
28 pursuant to subsection (b).

29 (b) List to be maintained by department.-- No later than six
30 months after the effective date of this section, the department

1 shall maintain a list of each registered manufacturer, the
2 brands of all covered devices reported in each manufacturer's
3 registration and the brands of covered devices for which no
4 manufacturer has registered and post the list on the
5 department's Internet website.

6 (c) Duty of retailers to consult list.--

7 (1) Beginning no later than 12 months after the
8 effective date of this section, a retailer of new covered
9 devices to be offered for sale in or into this Commonwealth
10 shall consult the list prior to selling new covered devices
11 in this Commonwealth.

12 (2) A retailer shall be considered to have complied with
13 paragraph (1) if, on the date that the new covered device was
14 ordered ~~from~~ BY the retailer, the brand was on the list of ←
15 registered manufacturers and is posted on the Internet
16 website identified in subsection (b).

17 Section 303. Labeling requirement.

18 On or after the effective date of this section, no
19 manufacturer or retailer may sell or offer for sale in this
20 Commonwealth a new covered device unless it is labeled with the
21 manufacturer's brand whether owned or licensed.

22 Section 304. Registration.

23 (a) Manufacturers registration.--

24 (1) A manufacturer of new covered devices offered for
25 sale in this Commonwealth shall register with the department
26 by January 30, 2011, or six months after the effective date
27 of this section, whichever is later, and pay a registration
28 fee of \$5,000.

29 (2) After January 30, 2011, or six months after the
30 effective date of this section, whichever is later, if a

1 manufacturer has not previously filed a registration, the
2 manufacturer shall file a registration with the department
3 prior to any offer for sale or delivery in this Commonwealth
4 of the manufacturer's new covered devices and shall pay to
5 the department a registration fee of \$5,000.

6 (3) A registered manufacturer shall submit an annual
7 renewal of its registration to the department and pay to the
8 department a registration fee of \$5,000 by January 1 of each
9 program year. The registration and each annual renewal shall
10 include a list of all brands the manufacturer is using on its
11 covered devices regardless of whether the manufacturer owns
12 or licenses the brand, and shall be effective upon receipt by
13 the department.

14 ~~(b) Reporting by manufacturers.~~ ←

15 ~~(1) In addition to reporting all brands under which its~~
16 ~~covered devices are offered for sale, regardless of whether~~
17 ~~the manufacturer owns or licenses the brand, the~~
18 ~~manufacturer's annual report to the department shall include~~
19 ~~an estimate of the total weight of its covered television~~
20 ~~devices sold to households during the previous year~~
21 ~~calculated by multiplying the weight of its covered~~
22 ~~television devices sold nationally times the quotient of this~~
23 ~~Commonwealth's population divided by the national population.~~
24 ~~The report required under this paragraph shall be submitted~~
25 ~~to the department upon initial registration and then by~~
26 ~~January 30 each year thereafter.~~

27 ~~(2) When a manufacturer or group of manufacturers~~
28 ~~conducts its own collection, transportation and recycling~~
29 ~~program for covered devices, the manufacturer or group of~~
30 ~~manufacturers shall submit a report to the department~~

1 ~~annually by January 30, beginning the year after the program~~
2 ~~is initiated. The report shall consist of the total weight of~~
3 ~~covered devices collected from consumers in this Commonwealth~~
4 ~~by the manufacturer or group of manufacturers during the~~
5 ~~previous program year and documentation verifying collection~~
6 ~~and recycling of such devices.~~

7 ~~(c) Sales data. Any national sales data submitted by a~~
8 ~~television manufacturer to the department to fulfill its~~
9 ~~obligations under this act shall be exempt from disclosure under~~
10 ~~the provisions of the act of February 14, 2008 (P.L.6, No.3),~~
11 ~~known as the Right To Know Law, and shall not be disclosed by~~
12 ~~the department unless otherwise required by law or court order.~~

13 (B) (RESERVED) . ←

14 Section 305. Manufacturer plan and reporting.

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

16 (1) A manufacturer shall establish, conduct and manage a
17 plan to collect, transport and recycle a quantity of covered
18 ~~computer~~ devices equal to the manufacturer's market share. ←

19 The plan shall be submitted to the department for review.

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

23 (b) Contents of plan.--The plan required under subsection
24 (a) shall include:

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

28 (2) The processes that will be used to recycle,
29 including a description of the recycling processes that will
30 be used and the names and locations of recyclers to be

1 directly utilized by the plan.

2 (3) Means that will be utilized to publicize the
3 collection opportunities, including specification of an
4 Internet website address or toll-free telephone number that
5 provides information about the manufacturer's program in
6 sufficient detail to allow consumers to learn how to return
7 their covered devices for recycling.

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

12 (5) A listing of all collection sites for covered
13 devices.

14 (6) FOR AN INITIAL PLAN SUBMITTED BY A MANUFACTURER OR ←
15 GROUP OF MANUFACTURERS, AN ESTIMATE OF THE WEIGHT OF COVERED
16 DEVICES TO BE COLLECTED DURING THE FIRST PROGRAM YEAR. THE
17 PLAN SHALL ALSO INCLUDE INFORMATION DEMONSTRATING THE PROCESS
18 BY WHICH THE MANUFACTURER OR GROUP OF MANUFACTURERS WILL
19 INCREASE THE COLLECTION OF COVERED DEVICES BY A MINIMUM OF 2%
20 BY WEIGHT PER YEAR BEGINNING WITH THE SECOND FULL PROGRAM
21 YEAR.

22 (C) REPORTING BY MANUFACTURERS.--

23 (1) (I) IN ADDITION TO REPORTING ALL BRANDS UNDER WHICH
24 ITS COVERED DEVICES ARE OFFERED FOR SALE, REGARDLESS OF
25 WHETHER THE MANUFACTURER OWNS OR LICENSES THE BRAND, THE
26 MANUFACTURER'S ANNUAL REPORT TO THE DEPARTMENT SHALL
27 INCLUDE: AN ESTIMATE OF THE TOTAL WEIGHT OF ITS COVERED
28 DEVICES SOLD TO HOUSEHOLDS DURING THE PREVIOUS YEAR
29 CALCULATED BY MULTIPLYING THE WEIGHT OF ITS COVERED
30 DEVICES SOLD NATIONALLY TIMES THE QUOTIENT OF THIS

1 COMMONWEALTH'S POPULATION DIVIDED BY THE NATIONAL
2 POPULATION.

3 (II) THE REPORT REQUIRED UNDER THIS PARAGRAPH SHALL
4 BE SUBMITTED TO THE DEPARTMENT UPON INITIAL REGISTRATION
5 AND THEN BY JANUARY 30 EACH YEAR THEREAFTER.

6 (2) WHEN A MANUFACTURER OR GROUP OF MANUFACTURERS
7 CONDUCTS ITS OWN COLLECTION, TRANSPORTATION AND RECYCLING
8 PROGRAM FOR COVERED DEVICES, THE MANUFACTURER OR GROUP OF
9 MANUFACTURERS SHALL SUBMIT A REPORT TO THE DEPARTMENT
10 ANNUALLY BY JANUARY 30, BEGINNING THE YEAR AFTER THE PROGRAM
11 IS INITIATED. THE REPORT SHALL CONSIST OF THE TOTAL WEIGHT OF
12 COVERED DEVICES COLLECTED FROM CONSUMERS IN THIS COMMONWEALTH
13 BY THE MANUFACTURER OR GROUP OF MANUFACTURERS DURING THE
14 PREVIOUS YEAR AND DOCUMENTATION VERIFYING COLLECTION AND
15 RECYCLING OF THE DEVICES.

16 (D) SALES DATA.--NATIONAL SALES DATA SUBMITTED BY A
17 MANUFACTURER TO THE DEPARTMENT TO FULFILL ITS OBLIGATIONS UNDER
18 THIS ACT SHALL BE EXEMPT FROM DISCLOSURE UNDER THE PROVISIONS OF
19 THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-
20 TO-KNOW LAW, AND SHALL NOT BE DISCLOSED BY THE DEPARTMENT UNLESS
21 OTHERWISE REQUIRED BY LAW OR COURT ORDER.

22 ~~(e)~~ (E) Approval of plan.--



23 (1) The department shall review a plan submitted to it
24 under subsection (a) and, within 60 days of receipt of the
25 plan, determine whether the plan complies with the provisions
26 of this act.

27 (2) If the department approves the plan, the department
28 shall notify the manufacturer or group of manufacturers. If
29 the department rejects the plan, in whole or in part, the
30 department shall notify the manufacturer or group of

1 manufacturers and provide the reasons for the plan's
2 rejection. Rejection of a plan shall be based on the plan's
3 failure to provide the information required by subsection
4 (b).

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

8 ~~(d)~~ (F) Effect of failure to comply with ~~approval~~ APPROVED ←
9 plan.--

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

20 (ii) The payment shall be equal to the quantity of
21 the unmet portion, in pounds, plus an additional 10% of
22 such quantity, multiplied by the cost per pound for
23 collection, transportation and recycling of covered
24 devices.

25 (iii) All payments collected under subparagraph (ii)
26 shall be deposited into the ELECTRONIC MATERIALS ←
27 Recycling Fund ACCOUNT and shall be used to fund the ←
28 activities under ~~section 501 and other recycling programs~~ ←
29 ~~within this Commonwealth~~ THIS ACT. ←

30 (2) The department shall:

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

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

8 ~~(e)~~ (G) Multiple ~~computer~~ manufacturers.-- ←

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

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

21 ~~(f)~~ (H) Construction.--Nothing in this act shall be ←
22 construed to exempt any person from liability that person would
23 otherwise have under applicable law.

24 Section 306. Retailer responsibility.

25 (a) Public notice.--A retailer shall notify customers about
26 the manner in which to recycle a covered device and of the
27 locations for the collection and return of covered devices. This
28 notification shall occur either by posting the information
29 within the retail location, by providing the department's toll-
30 free telephone number, Internet website or both, or by providing

1 retailer-developed information.

2 (b) Compliance.--A retailer shall comply with sections
3 302(a) and (c) and 303.

4 CHAPTER 5
5 ADMINISTRATION

6 Section 501. Duties of department.

7 The department shall:

8 (1) Encourage the use of existing collection and
9 consolidation infrastructure for handling covered devices to
10 the extent that this infrastructure is accessible on a
11 regular and ongoing basis to at least 85% of the population
12 of this Commonwealth, is cost effective and meets the
13 environmentally sound management requirements of section 506.

14 (2) Update the list maintained pursuant to section
15 302(b) upon receipt by the department of a manufacturer's
16 registration or an annual manufacturer registration renewal.

17 (3) Organize and coordinate public education and
18 outreach. The department shall work with retailers to develop
19 the appropriate public education and outreach materials and
20 to assist retailers as necessary in the conduct of their
21 public education and outreach efforts.

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

25 (5) Oversee the implementation of all approved plans and
26 take the necessary actions to ensure compliance with approved
27 plans.

28 Section 502. Annual report.

29 The department shall prepare and submit annually to the
30 General Assembly and post on its Internet website a report that

1 includes:

2 (1) The total weight of covered ~~computer devices or~~ ←
3 ~~covered television~~ devices collected in this Commonwealth
4 during the previous calendar year.

5 (2) A complete listing of all manufacturers' collection,
6 transportation and recycling programs and collection sites
7 operating in this Commonwealth during the prior calendar
8 year, the parties that operated them and the amount of
9 material by weight collected at each site.

10 (3) An evaluation of the effectiveness of the education
11 and outreach program.

12 (4) An evaluation of the existing collection and
13 processing infrastructure.

14 (5) Recommendations for expanding the program to include
15 additional electronic devices. All recommendations shall be
16 accompanied by an analysis of the positive and negative
17 aspects along with a cost benefit analysis of the
18 recommendations.

19 Section 503. Additional duties.

20 The department shall:

21 (1) Maintain an Internet website and toll-free telephone
22 number complete with up-to-date listings of where consumers
23 may take covered ~~computer devices or covered television~~ ←
24 devices for recycling under this act.

25 (2) No more frequently than annually and no less
26 frequently than biennially, review the amount of the covered
27 ~~computer device and covered television~~ device recycling and ←
28 registration fee. ~~Recommended changes to the covered computer~~ ←
29 ~~device and covered television device recycling program and~~
30 ~~registration fees shall be published in the Pennsylvania~~

~~Bulletin. The department shall provide for a 30 day public comment period on the recommended changes. The department shall consider all comments received and revise accordingly any of its original recommendations and changes to the program or fees, which shall be contained in the annual report.~~ THE ENVIRONMENTAL QUALITY BOARD MAY PROMULGATE REGULATIONS TO ADJUST FEES SO THAT THE FEES GENERATE SUFFICIENT REVENUE REASONABLY NECESSARY TO IMPLEMENT THIS ACT.

Section 504. Fees for collection or recycling of covered ~~computer~~ devices.

No manufacturer or retailer may charge a fee or cost to a consumer for the collection, transportation or recycling of a covered device, unless a financial incentive of equal or greater value is provided to the consumer. The financial incentive may be in the form of a coupon or rebate.

Section 505. Environmentally sound management requirements.

(a) General rule.--Covered devices collected through any program in this Commonwealth, whether by a manufacturer, retailer, for-profit or not-for-profit corporation or unit of government, shall be recycled in a manner that is in compliance with all applicable Federal, State and local laws, regulations and ordinances and may not be exported for disposal in a manner that poses a significant risk to the public health or the environment.

(b) Performance requirements.---~~All~~

(1) ALL entities shall, at a minimum, demonstrate to the satisfaction of the department ~~compliance with the Environmental Protection Agency's: Guidelines for Materials Management of the Partnership referred to as Plug In to~~

1 ~~eCycling or Responsible Recycling (R2) Practices for use in~~
2 ~~Accredited Certification Programs as issued or any subsequent~~
3 ~~revisions or new editions and make this available on the~~
4 ~~Internet website described in subsection (c) in addition to~~
5 ~~any other requirements mandated by Federal or State law. THAT~~ ←
6 THE FACILITY TO BE USED TO RECYCLE COVERED DEVICES HAS
7 ACHIEVED AND MAINTAINED THIRD-PARTY ACCREDITED CERTIFICATION
8 FROM:

9 (I) THE RESPONSIBLE RECYCLING (R2) PRACTICES
10 STANDARD;

11 (II) THE E-STEWARDS STANDARD; OR

12 (III) AN INTERNATIONALLY ACCREDITED THIRD-PARTY
13 ENVIRONMENTAL MANAGEMENT STANDARD FOR THE SAFE AND
14 RESPONSIBLE HANDLING OF COVERED DEVICES.

15 (2) ALL ENTITIES SHALL PROVIDE INFORMATION ABOUT THEIR
16 CERTIFICATION AND ITS STANDING TO THE DEPARTMENT ALONG WITH
17 ANY OTHER REQUIREMENTS REGARDING THIS SUBSECTION THAT MAY BE
18 MANDATED BY FEDERAL OR STATE LAW. THE DEPARTMENT SHALL MAKE
19 THIS INFORMATION AVAILABLE ON ITS INTERNET WEBSITE.

20 (c) Department to maintain Internet website.--The department
21 shall maintain an Internet website that includes a list of
22 entities and organizations that the department has determined
23 have met the performance requirements.

24 Section 506. Disposal ban.

25 (a) General rule.--Two years after the effective date of
26 this section, no person may place in municipal solid waste a
27 covered device or any of ~~the components or subassemblies thereof~~ ←
28 ITS COMPONENTS, excluding any nonhazardous residuals produced ←
29 during recycling in any solid waste disposal facility.

30 (b) Hold harmless.--An owner or operator of a solid waste

1 disposal facility shall not be found in violation of this
2 section if such owner or operator has:

3 (1) made a good faith effort to comply with this
4 section;

5 (2) posted in a conspicuous location at the facility a
6 sign stating that covered ~~electronic devices and covered~~ ←
7 ~~television devices or any components thereof~~ OF THEIR ←
8 COMPONENTS shall not be accepted at such facility; and

9 (3) notified, in writing, all collectors registered to
10 deposit solid waste to such facility that such devices or
11 THEIR components shall not be accepted at the facility. ←

12 (c) Definition.--For purposes of this section, "facility"
13 shall have the same meaning given to it in section 103 of the
14 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
15 Management Act. The term does not include a transfer station.
16 Section 507. Enforcement.

17 (a) Judicial action.--

18 (1) The Commonwealth, through the Attorney General and
19 the department, may initiate independent action to enforce
20 any provision of this act, including failure by the
21 manufacturer to submit a plan as required in section 305 or
22 to remit the registration fee pursuant to section 304(a) to
23 the department.

24 (2) Any funds awarded by the court shall be used first
25 to offset enforcement expenses. Money in excess of the
26 enforcement expenses shall be deposited into the Electronic
27 Materials Recycling Account and used to support the
28 activities under this act.

29 (b) Penalties.--

30 (1) Any manufacturer who fails to label its new covered

1 devices with a brand, as required by section 303, who fails
2 to register with the department and pay a registration fee,
3 as required by section 304(a), may be assessed a penalty of
4 up to \$10,000 for the first violation and up to \$25,000 for
5 the second and each subsequent violation in addition to
6 paying for any fees, payments and penalties required by or
7 imposed pursuant to this act.

8 (2) Except as otherwise provided under paragraph (1),
9 any person, including a retailer, who violates any
10 requirement of this act may be assessed a penalty of up to
11 \$1,000 for the first violation and up to \$2,000 for the
12 second and each subsequent violation, in addition to paying
13 for any fees, payments and penalties required by or imposed
14 pursuant to this act.

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

19 (c) Injunctive relief.--A violation of the sales
20 prohibitions of this act may be enjoined in an action in the
21 name of the Commonwealth, brought by the Attorney General.

22 Section 508. Regulations.

23 The ~~department~~ ENVIRONMENTAL QUALITY BOARD may adopt rules ←
24 and regulations as shall be necessary for the purpose of
25 administering this act. The regulations shall be promulgated in
26 accordance with the act of June 25, 1982 (P.L.633, No.181),
27 known as the Regulatory Review Act.

28 Section 509. Multistate implementation.

29 The department may participate in the establishment and
30 implementation of a regional, multistate organization or compact

1 to assist in carrying out the requirements of this act.

2 Section 510. Electronic Materials Recycling Account.

3 (a) Establishment.--The Electronic Materials Recycling
4 Account is established as a restricted account in the General
5 Fund. All proceeds resulting from the manufacturer's
6 registration fees, renewal fees, penalties and judicial actions
7 shall be deposited into the account.

8 (b) Uses.--The department may expend the moneys of the
9 Electronic Materials Recycling Account only to carry out the
10 duties imposed on the department under this act.

11 CHAPTER 7

12 MISCELLANEOUS PROVISIONS

13 Section 701. Expiration.

14 (a) Duty of Secretary of Environmental Protection to monitor
15 Federal law.--

16 (1) The secretary shall monitor the enactment of laws by
17 the Congress of the United States to ~~determined~~ DETERMINE ←
18 whether any law has been so enacted that establishes a
19 program directed to the collection and recycling of covered
20 devices.

21 (2) If the secretary determines that such a law is
22 enacted, the secretary shall publish that determination as a
23 notice in the Pennsylvania Bulletin. The notice shall include
24 a statement that the effect of the notice is the immediate
25 expiration of this act as provided under subsection (b).

26 (b) Effect of secretary's determination.--This act shall
27 expire on the date a determination of the secretary under
28 subsection (a) is published in the Pennsylvania Bulletin.

29 Section 702. Effective date.

30 This act shall take effect in 60 days.