

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 708 Session of 2009

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 14, 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, ~~electronic printer,~~ ←

1 professional workstation, server, mobile telephone, portable  
2 handheld calculator, portable digital assistant, MP3 player or  
3 other similar device. ~~The term also does not include a computer~~ ←  
4 ~~peripheral commonly known as a cable, mouse or keyboard.~~

5 "Computer manufacturer." A person:

6 ~~(1) who manufactures or manufactured covered computer~~ ←  
7 ~~devices under a brand that it owns or owned or is or was~~  
8 ~~licensed to use, other than a license to manufacture covered~~  
9 ~~devices for delivery exclusively to or at the order of the~~  
10 ~~licensor;~~

11 ~~(2) who sells or sold covered devices manufactured by~~  
12 ~~others under a brand that the seller owns or owned or is or~~  
13 ~~was licensed to use, other than a license to manufacture~~  
14 ~~covered devices for delivery exclusively to or at the order~~  
15 ~~of the licensor; or~~

16 ~~(3) for whose account covered devices were manufactured~~  
17 ~~outside the United States and are or were imported into the~~  
18 ~~United States, but this paragraph shall not apply if, at the~~  
19 ~~time such covered devices are or were imported into the~~  
20 ~~United States, another person has offered to collect the~~  
21 ~~covered devices under a recovery plan pursuant to section~~  
22 ~~5(c).~~

23 ~~This term does not mean any person who both owns and licenses~~  
24 ~~the brand appearing on the covered computer device and has not~~  
25 ~~also manufactured or sold covered computer devices.~~

26 (1) WHO MANUFACTURES COVERED COMPUTER DEVICES TO BE SOLD ←  
27 UNDER ITS OWN BRAND AS IDENTIFIED BY ITS OWN BRAND LABEL;

28 (2) WHO SELLS COVERED COMPUTER DEVICES MANUFACTURED BY  
29 OTHERS UNDER ITS OWN BRAND AS IDENTIFIED BY ITS OWN BRAND  
30 LABEL; OR

1 (3) WHO ASSUMES THE DUTIES IMPOSED ON THE COMPUTER  
2 MANUFACTURER UNDER THIS ACT.

3 "Consumer." An occupant of a single detached dwelling unit  
4 or a single unit of a multiple dwelling unit who has used a  
5 covered device primarily for personal or home business use.

6 "Covered computer device." A desktop or notebook computer or  
7 computer monitor OR PERIPHERAL, marketed and intended for use by ←  
8 a consumer. The term does not include a covered television  
9 device.

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

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

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

28 (3) a device that is contained within a clothes washer,  
29 clothes dryer, refrigerator, refrigerator and freezer,  
30 microwave oven, conventional oven or range, dishwasher, room

1 air conditioner, dehumidifier, air purifier or exercise  
2 equipment; or

3 (4) any of the following:

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

5 (ii) Personal digital assistant.

6 (iii) Global positioning system.

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

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

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

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

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

29 (3) Achieves human interface through a stand-alone  
30 keyboard, stand-alone monitor or other display unit and a

1 stand-alone mouse or other pointing device and is designed  
2 for a single user.

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

6 "Market share." ~~A television manufacturer's prior year's~~ ←  
7 ~~sales of covered television devices, in units, expressed as a~~  
8 ~~percentage of the total of all television manufacturers' prior~~  
9 ~~year sales, in units, for all covered television devices.~~ ← AN  
10 ESTIMATE OF THE TOTAL WEIGHT OF A TELEVISION MANUFACTURER'S  
11 SALES OF COVERED TELEVISION DEVICES DURING THE PREVIOUS PROGRAM  
12 YEAR CALCULATED BY MULTIPLYING THE WEIGHT OF ITS COVERED  
13 TELEVISION DEVICES SOLD NATIONALLY TIMES THE QUOTIENT OF THIS  
14 COMMONWEALTH'S POPULATION DIVIDED BY THE NATIONAL POPULATION.

15 "New covered device." A covered device or a covered  
16 television device that is manufactured after the effective date  
17 of this section.

18 "Notebook computer." An electronic, magnetic, optical,  
19 electrochemical or other high-speed data processing device  
20 which:

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

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

26 (3) Achieves human interface through a keyboard, video  
27 display greater than four inches in size and mouse or other  
28 pointing device, all of which are contained within the  
29 construction of the unit which comprises the notebook  
30 computer.

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

2 (5) May include a supplemental stand-alone interface  
3 device.

4 (6) May use external, internal or batteries for a power  
5 source.

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

8 "Obligated share." The proportion of covered computer  
9 devices that reflects a manufacturer's returns share or covered  
10 television devices that reflects a manufacturer's market share  
11 responsibility under this act.

12 "Orphan device." A covered computer device for which no  
13 manufacturer may be identified.

14 "PERIPHERAL." A KEYBOARD, PRINTER OR ANY OTHER DEVICE SOLD ←  
15 EXCLUSIVELY FOR EXTERNAL USE WITH A COMPUTER THAT PROVIDES INPUT  
16 INTO OR OUTPUT FROM THE COMPUTER. THE TERM DOES NOT INCLUDE  
17 ADAPTIVE OR ASSISTIVE TECHNOLOGIES.

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

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

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

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

1 Protection.

2 "Retail sales." The sale of covered devices through sales  
3 outlets, via the Internet, mail order or other means, regardless  
4 of whether the retailer has a physical presence within this  
5 Commonwealth.

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

10 "Return share." The proportion of covered computer devices  
11 for which an individual manufacturer is responsible to collect,  
12 transport and recycle.

13 "Return share in weight." The total weight of covered  
14 computer devices for which a manufacturer is responsible to  
15 collect, transport and recycle.

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

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

22 "Television manufacturer." A person who:

23 ~~(1) manufactures covered television devices under a~~ ←  
24 ~~brand that it licenses or owns for sale in this Commonwealth~~  
25 ~~but does not include a person who manufactures, sells or~~  
26 ~~resells a television device under a brand it licenses, the~~  
27 ~~licensor or brand owner of the brand;~~

28 ~~(2) manufactures covered television devices without~~  
29 ~~affixing a brand for sale in this Commonwealth;~~

30 ~~(3) resells into this Commonwealth a covered television~~



1 ~~device under a brand it owns or licenses produced by other~~  
2 ~~suppliers, including a retail establishment that sells~~  
3 ~~covered television devices under a brand the retailer owns or~~  
4 ~~licenses but does not include a person who manufactures,~~  
5 ~~sells or resells a television device under a brand it~~  
6 ~~licenses, the licensor or brand owner of the brand;~~

7 ~~(4) imports into the United States or exports from the~~  
8 ~~United States covered television devices for sale in this~~  
9 ~~Commonwealth;~~

10 ~~(5) sells at retail a covered television device acquired~~  
11 ~~from an importer that is the manufacturer as described in~~  
12 ~~paragraph (4) and elects to register in lieu of the importer~~  
13 ~~as the manufacturer for those products;~~

14 ~~(6) manufactures covered television devices, supplies~~  
15 ~~them to any person or persons within a distribution network~~  
16 ~~that includes wholesalers or retailers in this Commonwealth~~  
17 ~~and benefits from the sale in this Commonwealth of those~~  
18 ~~covered television devices through such distribution network;~~

19 ~~or~~

20 ~~(7) assumes the responsibilities and obligations of a~~  
21 ~~television manufacturer under this act.~~

22 (1) MANUFACTURES COVERED TELEVISION DEVICES TO BE SOLD ←  
23 UNDER ITS OWN BRAND AS IDENTIFIED BY ITS OWN BRAND LABEL OR  
24 SOLD UNDER A BRAND IT LICENSES;

25 (2) SELLS COVERED TELEVISION DEVICES MANUFACTURED BY  
26 OTHERS UNDER ITS OWN BRAND AS IDENTIFIED BY ITS OWN BRAND  
27 LABEL; OR

28 (3) ASSUMES THE DUTIES IMPOSED ON A TELEVISION  
29 MANUFACTURER UNDER THIS ACT.

30 CHAPTER 3

DUTIES OF MANUFACTURERS AND RETAILERS

Section 301. Applicability.

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

Section 302. Sales prohibition.

(a) General rule.--No manufacturer ~~or~~ AND, NO LATER THAN 12 MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, NO retailer may sell or offer for sale in this Commonwealth a new covered device unless the brand is included on the list of registered manufacturers and their brands maintained by the department pursuant to subsection (b).

(b) List to be maintained by department.--~~Beginning April 1, 2010~~ NO LATER THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, the department shall maintain a list of each registered manufacturer, the brands of all covered devices reported in each manufacturer's registration and the brands of covered devices for which no manufacturer has registered and post the list on the department's Internet website.

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

(1) A BEGINNING NO LATER THAN 12 MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, A retailer of new covered devices to be offered for sale in or into this Commonwealth shall consult the list prior to selling new covered devices in this Commonwealth.

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

1 Section 303. Labeling requirement.

2 On or after the effective date of this section, no  
3 manufacturer or retailer may sell or offer for sale in this  
4 Commonwealth a new covered device unless it is labeled with the  
5 manufacturer's ~~name~~ and brand whether owned or licensed. ←

6 Section 304. Registration.

7 (a) Manufacturers registration.--

8 (1) A manufacturer of new covered devices offered for  
9 sale in this Commonwealth shall register with the department  
10 by January 30, 2011, OR SIX MONTHS AFTER THE EFFECTIVE DATE ←  
11 OF THIS SECTION, WHICHEVER IS LATER, and pay a registration  
12 fee of \$5,000.

13 (2) After January 30, 2011, OR SIX MONTHS AFTER THE ←  
14 EFFECTIVE DATE OF THIS SECTION, WHICHEVER IS LATER, if a  
15 manufacturer has not previously filed a registration, the  
16 manufacturer shall file a registration with the department  
17 prior to any offer for sale or delivery in this Commonwealth  
18 of the manufacturer's new covered devices and shall pay to  
19 the department a registration fee of \$5,000.

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

28 ~~(b) Reporting by computer manufacturers. By April 1, 2010, ←~~  
29 ~~the department shall establish a procedure for an auditable,~~  
30 ~~statistically significant sampling of covered computer devices~~

1 ~~collected from consumers in this Commonwealth and an audit~~  
2 ~~procedure for the sampling results. The results of the sampling~~  
3 ~~shall consist of a list of brands of covered computer devices~~  
4 ~~and the weight of covered computer devices of each brand. Prior~~  
5 ~~to final adoption of the sampling procedure, the department~~  
6 ~~shall notify the public, including all registered manufacturers~~  
7 ~~selling computer devices, of the availability of the proposed~~  
8 ~~sampling procedure, shall provide a 30 day public comment period~~  
9 ~~and shall prepare and make available to the public a written~~  
10 ~~response to public comments received during the public comment~~  
11 ~~period.~~

12 ~~(e) (B) Reporting by television manufacturers.--~~ ←

13 ~~(1) In addition to reporting all brands under which its~~  
14 ~~covered television devices are offered for sale, regardless~~ ←  
15 ~~of whether the television manufacturer owns or licenses the~~ ←  
16 ~~brand, the television manufacturer's annual report TO THE~~ ←  
17 ~~DEPARTMENT shall include the market share of all new covered~~ ←  
18 ~~television devices sold in this Commonwealth in the previous~~  
19 ~~program year. The market share for a television manufacturer~~  
20 ~~shall be determined using sales data submitted to the~~  
21 ~~manufacturer or the department by retailers pursuant to~~  
22 ~~section 306(b).~~

23 ~~(2) During the first program year after the effective~~  
24 ~~date of this section registered television manufacturers~~  
25 ~~shall collect data on the total weight of new covered~~  
26 ~~televisions sold during that year. The television~~  
27 ~~manufacturer's program obligations for the second and~~  
28 ~~subsequent program years shall be based upon the television~~  
29 ~~manufacturer's total weight in pounds multiplied by the~~  
30 ~~television manufacturer's market share in the previous~~

1 ~~program year~~ AN ESTIMATE OF THE TOTAL WEIGHT OF ITS COVERED ←  
2 TELEVISION DEVICES SOLD TO HOUSEHOLDS DURING THE PREVIOUS  
3 YEAR CALCULATED BY MULTIPLYING THE WEIGHT OF ITS COVERED  
4 TELEVISION DEVICES SOLD NATIONALLY TIMES THE QUOTIENT OF THIS  
5 COMMONWEALTH'S POPULATION DIVIDED BY THE NATIONAL POPULATION.  
6 THE REPORT REQUIRED UNDER THIS PARAGRAPH SHALL BE SUBMITTED  
7 TO THE DEPARTMENT UPON INITIAL REGISTRATION AND THEN BY  
8 JANUARY 30 EACH YEAR THEREAFTER.

9 ~~(3)~~ (2) When a manufacturer or group of manufacturers ←  
10 conducts its own collection, transportation and recycling  
11 program for covered devices, the manufacturer or group of  
12 manufacturers shall submit a report to the department  
13 annually by January 30, beginning the year after the program  
14 is initiated. ~~The report, sampling, if applicable, and ←~~  
15 ~~weighing required by this paragraph shall be paid for by the~~  
16 ~~manufacturer or group of manufacturers.~~ The report shall  
17 consist of: ←

18 ~~(i) The~~ THE total weight of covered ~~computer~~ ←  
19 ~~devices, including orphan share or covered television~~ ←  
20 ~~devices,~~ collected from consumers in this Commonwealth by  
21 the manufacturer or group of manufacturers during the  
22 previous program year and documentation verifying  
23 collection and recycling of such devices.

24 ~~(ii) The results of a statistically significant~~ ←  
25 ~~sampling, if applicable, conducted in accordance with the~~  
26 ~~sampling procedure established by the department pursuant~~  
27 ~~to paragraph (1) of covered computer devices collected~~  
28 ~~from consumers in this Commonwealth by the manufacturer~~  
29 ~~or group of manufacturers during the previous program~~  
30 ~~year. The manufacturer shall audit the sampling results~~

1 ~~in accordance with the audit procedure established by the~~  
2 ~~department pursuant to paragraph (1). The sampling may be~~  
3 ~~conducted by a third party organization, including a~~  
4 ~~recycler, to be determined by the manufacturer or group~~  
5 ~~of manufacturers.~~

6 (C) SALES DATA.--ANY NATIONAL SALES DATA SUBMITTED BY A ←  
7 TELEVISION MANUFACTURER TO THE DEPARTMENT TO FULFILL ITS  
8 OBLIGATIONS UNDER THIS ACT SHALL BE EXEMPT FROM DISCLOSURE UNDER  
9 THE PROVISIONS OF THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3),  
10 KNOWN AS THE RIGHT-TO-KNOW LAW, AND SHALL NOT BE DISCLOSED BY  
11 THE DEPARTMENT UNLESS OTHERWISE REQUIRED BY LAW OR COURT ORDER.  
12 Section 305. Manufacturer plan and reporting.

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

14 (1) A manufacturer shall establish, conduct and manage a  
15 plan to collect, transport and recycle a quantity of covered  
16 computer devices equal to the manufacturer's ~~return share in~~ ←  
17 ~~weight or, in the case of covered television devices, the~~  
18 ~~manufacturer's~~ market share. The plan shall be submitted to  
19 the department for review.

20 (2) A group of manufacturers may submit a joint plan to  
21 collect, transport and recycle the ~~sum of the return shares~~ ←  
22 ~~in weight in the case of covered computer devices of each~~  
23 ~~participating manufacturer or, in the case of covered~~  
24 ~~television devices, the television~~ manufacturer's market  
25 share.

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

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

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

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

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

15 (5) A listing of all collection sites for covered  
16 ~~electronic devices and covered television~~ devices. ←

17 (c) Approval of plan.--

18 (1) The department shall review a plan submitted to it  
19 under subsection (a) and, within 60 days of receipt of the  
20 plan, determine whether the plan complies with the provisions  
21 of this act.

22 (2) If the department approves the plan, the department  
23 shall notify the manufacturer or group of manufacturers. If  
24 the department rejects the plan, in whole or in part, the  
25 department shall notify the manufacturer or group of  
26 manufacturers and provide the reasons for the plan's  
27 rejection. Rejection of a plan shall be based on the plan's  
28 failure to provide the information required by subsection  
29 (b).

30 (3) Within 30 days after receipt of the department's

1 rejection, the manufacturer or group of manufacturers may  
2 revise and resubmit the plan to the department for approval.

3 (d) Effect of failure to comply with approval plan.--

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

14 (ii) The payment shall be equal to the quantity of  
15 the unmet portion, in pounds, plus an additional 10% of  
16 such quantity, multiplied by the cost per pound for  
17 collection, transportation and recycling of covered  
18 devices.

19 (iii) All payments collected under subparagraph (ii)  
20 shall be deposited into the Recycling Fund and shall be  
21 used to fund the activities under section 501 and other  
22 recycling programs within this Commonwealth.

23 (2) The department shall:

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

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



1 (e) Multiple computer manufacturers.--

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

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

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

17 Section 306. Retailer responsibility.

18 (a) Public notice.--A retailer shall ~~clearly post and~~ ←  
19 ~~provide information provided by the department that describes~~  
20 ~~where and how to recycle a covered device and opportunities and~~  
21 ~~locations for the collection and return of the covered device,~~  
22 ~~through the use of a toll free telephone number and Internet~~  
23 ~~website, information included in the packaging or information~~  
24 ~~provided accompanying the sale of the covered device.~~

25 ~~(b) Sales.--~~

26 ~~(1) A retailer who sells a new covered television device~~  
27 ~~during a calendar year shall report the number and weight of~~  
28 ~~new covered television devices from each television~~  
29 ~~manufacturer sold by that retailer during that calendar year~~  
30 ~~to the department within 30 days of the end of the calendar~~

1 ~~year. The report submitted by the retailer to the department~~  
2 ~~shall be exempt from disclosure under the provisions of the~~  
3 ~~act of February 14, 2008 (P.L.6, No.3), known as the Right~~  
4 ~~to Know Law, and shall not be disclosed by the department~~  
5 ~~unless otherwise required by law or court order, however, all~~  
6 ~~aggregated data compiled by the department shall not be~~  
7 ~~exempt from the provisions of the Right to Know Law.~~

8 ~~(2) The department shall utilize this data exclusively~~  
9 ~~to calculate a covered television manufacturer's market~~  
10 ~~share.~~

11 ~~(3) A television manufacturer of a covered television~~  
12 ~~device may request of the department a copy of the~~  
13 ~~information on the brands for which they are a manufacturer~~  
14 ~~and which brands may be included in the report submitted by a~~  
15 ~~retailer to the department. The department shall only provide~~  
16 ~~information on the brands the television manufacturer is~~  
17 ~~using, regardless of whether the television manufacturer~~  
18 ~~licenses or owns the brands, and this information shall be~~  
19 ~~exempt from the provisions of the Right to Know Law.~~

20 ~~(4) NOTIFY CUSTOMERS ABOUT THE MANNER IN WHICH TO RECYCLE~~ ←  
21 ~~A COVERED DEVICE AND OF THE LOCATIONS FOR THE COLLECTION AND~~  
22 ~~RETURN OF COVERED DEVICES. THIS NOTIFICATION SHALL OCCUR~~  
23 ~~EITHER BY POSTING THE INFORMATION WITHIN THE RETAIL LOCATION,~~  
24 ~~BY PROVIDING THE DEPARTMENT'S TOLL-FREE TELEPHONE NUMBER,~~  
25 ~~INTERNET WEBSITE OR BOTH, OR BY PROVIDING RETAILER-DEVELOPED~~  
26 ~~INFORMATION.~~

27 (B) COMPLIANCE.--A retailer shall comply with sections  
28 302(a) and (c) and 303.

29 CHAPTER 5  
30 ADMINISTRATION

1 Section 501. Duties of department.

2 The department shall:

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

9 (2) Update the list maintained pursuant to section  
10 302(b) upon receipt by the department of a manufacturer's  
11 registration or an annual manufacturer registration renewal.

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

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

20 (5) Oversee the implementation of all approved plans and  
21 take the necessary actions to ensure compliance with approved  
22 plans.

23 Section 502. Annual report.

24 The department shall prepare and submit annually to the  
25 General Assembly and post on its Internet website a report that  
26 includes:

27 (1) The total weight of covered computer devices or  
28 covered television devices collected in this Commonwealth  
29 during the previous calendar year.

30 (2) A complete listing of all manufacturers' collection,

1 transportation and recycling programs and collection sites  
2 operating in this Commonwealth during the prior calendar  
3 year, the parties that operated them and the amount of  
4 material by weight collected at each site.

5 (3) An evaluation of the effectiveness of the education  
6 and outreach program.

7 (4) An evaluation of the existing collection and  
8 processing infrastructure.

9 (5) Recommendations for expanding the program to include  
10 additional electronic devices. All recommendations shall be  
11 accompanied by an analysis of the positive and negative  
12 aspects along with a cost benefit analysis of the  
13 recommendations.

14 Section 503. Additional duties.

15 The department shall:

16 (1) Maintain an Internet website and toll-free telephone  
17 number complete with up-to-date listings of where consumers  
18 may take covered computer devices or covered television  
19 devices for recycling under this act.

20 (2) No more frequently than annually and no less  
21 frequently than biennially, review ~~at a public hearing~~ the ←  
22 amount of the covered computer device and covered television  
23 device recycling and registration fee. Recommended changes to  
24 the covered computer device and covered television device  
25 recycling program and registration fees shall be ~~included in~~ ←  
26 ~~the annual report~~ PUBLISHED IN THE PENNSYLVANIA BULLETIN. THE ←  
27 DEPARTMENT SHALL PROVIDE FOR A 30-DAY PUBLIC COMMENT PERIOD  
28 ON THE RECOMMENDED CHANGES. THE DEPARTMENT SHALL CONSIDER ALL  
29 COMMENTS RECEIVED AND REVISE ACCORDINGLY ANY OF ITS ORIGINAL  
30 RECOMMENDATIONS AND CHANGES TO THE PROGRAM OR FEES, WHICH

1 SHALL BE CONTAINED IN THE ANNUAL REPORT.

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

4 No manufacturer or retailer may charge a fee or cost to a  
5 consumer for the collection, transportation or recycling of a  
6 covered ~~electronic device or a covered television device~~, UNLESS ←  
7 A FINANCIAL INCENTIVE OF EQUAL OR GREATER VALUE IS PROVIDED TO  
8 THE CONSUMER. THE FINANCIAL INCENTIVE MAY BE IN THE FORM OF A  
9 COUPON OR REBATE.

10 Section 505. Environmentally sound management requirements.

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

19 (b) Performance requirements.--~~The department shall~~ ←  
20 ~~establish performance requirements to conduct collection,~~  
21 ~~transportation and recycling programs for covered devices.~~ All  
22 entities shall, at a minimum, demonstrate TO THE SATISFACTION OF ←  
23 THE DEPARTMENT compliance with the Environmental Protection  
24 Agency's: Guidelines for Materials Management of the Partnership  
25 referred to as Plug-In to eCycling OR RESPONSIBLE RECYCLING (R2) ←  
26 PRACTICES FOR USE IN ACCREDITED CERTIFICATION PROGRAMS as issued  
27 OR ANY SUBSEQUENT REVISIONS OR NEW EDITIONS and make this ←  
28 available on the Internet website described in subsection (c) in  
29 addition to any other requirements mandated by Federal or State  
30 law.

1 (c) Department to maintain Internet website.--The department  
2 shall maintain an Internet website that includes a list of  
3 entities and organizations that the department has determined  
4 have met the performance requirements.

5 Section 506. Disposal ban.

6 (a) General rule.--Two years after the effective date of  
7 this section, no person may place in municipal solid waste a  
8 covered device or any of the components or subassemblies  
9 thereof, excluding any nonhazardous residuals produced during  
10 recycling in any solid waste disposal facility.

11 (b) Hold harmless.--An owner or operator of a solid waste  
12 disposal facility shall not be found in violation of this  
13 section if such owner or operator has:

14 (1) made a good faith effort to comply with this  
15 section;

16 (2) posted in a conspicuous location at the facility a  
17 sign stating that covered electronic devices and covered  
18 television devices or any components thereof shall not be  
19 accepted at such facility; and

20 (3) notified, in writing, all collectors registered to  
21 deposit solid waste to such facility that such devices or  
22 components shall not be accepted at the facility.

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

27 Section 507. Enforcement.

28 (a) Judicial action.--

29 (1) The Commonwealth, through the Attorney General and  
30 the department, may initiate independent action to enforce

1 any provision of this act, including failure by the  
2 manufacturer to SUBMIT A PLAN AS REQUIRED IN SECTION 305 OR  
3 TO remit the registration fee pursuant to section 304(a) to  
4 the department.

5 (2) Any funds awarded by the court shall be used first  
6 to offset enforcement expenses. Money in excess of the  
7 enforcement expenses shall be deposited into the ELECTRONIC  
8 MATERIALS Recycling Fund ACCOUNT and used to support the  
9 activities under ~~section 501 and other recycling programs~~  
10 ~~within this Commonwealth~~ THIS ACT.

11 (b) Penalties.--

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

20 (2) Except as otherwise provided under paragraph (1),  
21 any person, including a retailer, who violates any  
22 requirement of this act may be assessed a penalty of up to  
23 \$1,000 for the first violation and up to \$2,000 for the  
24 second and each subsequent violation, in addition to paying  
25 for any fees, payments and penalties required by or imposed  
26 pursuant to this act.

27 (3) All penalty moneys collected under paragraphs (1)  
28 and (2) shall be deposited into the ELECTRONIC MATERIALS  
29 Recycling Fund ACCOUNT and used to support the activities  
30 under ~~section 501 and other recycling programs within this~~

1 ~~Commonwealth~~ THIS ACT. ←

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

5 Section 508. Regulations.

6 The department may adopt rules and regulations as shall be  
7 necessary for the purpose of administering this act. The  
8 regulations shall be promulgated in accordance with the act of  
9 June 25, 1982 (P.L.633, No.181), known as the Regulatory Review  
10 Act.

11 Section 509. Multistate implementation.

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

15 SECTION 510. ELECTRONIC MATERIALS RECYCLING ACCOUNT. ←

16 (A) ESTABLISHMENT.--THE ELECTRONIC MATERIALS RECYCLING  
17 ACCOUNT IS ESTABLISHED AS A RESTRICTED ACCOUNT IN THE GENERAL  
18 FUND. ALL PROCEEDS RESULTING FROM THE MANUFACTURER'S  
19 REGISTRATION FEES, RENEWAL FEES, PENALTIES AND JUDICIAL ACTIONS  
20 SHALL BE DEPOSITED INTO THE ACCOUNT.

21 (B) USES.--THE DEPARTMENT MAY EXPEND THE MONEYS OF THE  
22 ELECTRONIC MATERIALS RECYCLING ACCOUNT ONLY TO CARRY OUT THE  
23 DUTIES IMPOSED ON THE DEPARTMENT UNDER THIS ACT.

## 24 CHAPTER 7

### 25 MISCELLANEOUS PROVISIONS

26 Section 701. Expiration.

27 (a) Duty of Secretary of Environmental Protection to monitor  
28 Federal law.--

29 (1) The secretary shall monitor the enactment of laws by  
30 the Congress of the United States to determined whether any



1 law has been so enacted that establishes a program directed  
2 to the collection and recycling of covered devices.

3 (2) If the secretary determines that such a law is  
4 enacted, the secretary shall publish that determination as a  
5 notice in the Pennsylvania Bulletin. The notice shall include  
6 a statement that the effect of the notice is the immediate  
7 expiration of this act as provided under subsection (b).

8 (b) Effect of secretary's determination.--This act shall  
9 expire on the date a determination of the secretary under  
10 subsection (a) is published in the Pennsylvania Bulletin.  
11 Section 702. Effective date.

12 This act shall take effect in 60 days.