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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 415 Session of  
2021

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INTRODUCED BY GORDNER, ARGALL, TARTAGLIONE AND STEFANO,  
MARCH 12, 2021

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 12, 2021

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AN ACT

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

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

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

20 Section 102. Definitions.

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

24 \* \* \*

1 "Electronic waste." A covered device that has been  
2 discarded, or is no longer wanted by its owner or for any other  
3 reason, that enters the waste collection, recovery, treatment,  
4 processing or recycling system.

5 "Electronic waste collection site." A facility at which  
6 electronic waste is accepted from consumers and which is  
7 temporarily stored for at least five days in a calendar year  
8 before the waste is transported to an electronic waste  
9 consolidation facility or electronic waste recycling facility.

10 "Electronic waste consolidation facility." A facility that  
11 receives and stores electronic waste for the purpose of  
12 organizing, categorizing or consolidating items of electronic  
13 waste before the waste is transported to an electronic waste  
14 recycling facility.

15 "Electronic waste recycling facility." A facility at which  
16 electronic waste is recycled.

17 \* \* \*

18 "Orphan product." A covered device for which its  
19 manufacturer is no longer operational.

20 \* \* \*

21 Section 2. Section 304(a) of the act is amended and the  
22 section is amended by adding subsections to read:

23 Section 304. Registration.

24 (a) Manufacturers registration.--

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

30 (2) After January 30, 2011, or six months after the

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

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

15 (i) The manufacturer's name, address and telephone  
16 number.

17 (ii) The name and title of an officer, director or  
18 other individual designated as the manufacturer's contact  
19 for purposes of this act.

20 (iii) A list identifying the manufacturer's brands.

21 (iv) A general description of the manner in which  
22 the manufacturer will comply with section 305.1,  
23 including specific information on the manufacturer's  
24 electronic waste acceptance program in this Commonwealth  
25 and a current list of locations within this Commonwealth  
26 where consumers may return electronic waste.

27 (v) Sales data reported by weight for the  
28 manufacturer's covered devices sold in this Commonwealth  
29 for the previous three calendar years, categorized by  
30 type to the extent known. If the manufacturer cannot

1 provide accurate Commonwealth sales data, the  
2 manufacturer must explain why the data cannot be provided  
3 and estimate Commonwealth sales data by:

4 (A) dividing the manufacturer's national sales  
5 data by weight by the national population according  
6 to the most recent census and multiplying the result  
7 by the population of this Commonwealth; or

8 (B) another method approved by the department.

9 (vi) Any other information as the department may  
10 require.

11 \* \* \*

12 (c) Registration.--After the effective date of this  
13 subsection, a manufacturer may not sell or offer for sale  
14 covered devices in this Commonwealth unless the manufacturer has  
15 registered with the department and maintains an electronic waste  
16 acceptance program through which the manufacturer, either  
17 directly or through an agent or designee, accepts electronic  
18 waste from consumers in this Commonwealth for recycling. The  
19 manufacturer must ensure that each retailer is notified of the  
20 registration.

21 (d) Electronic waste collection site registration.--After  
22 the effective date of this subsection, each person who owns or  
23 operates an electronic waste collection site in this  
24 Commonwealth shall:

25 (1) Register with the department on a form and in a  
26 manner prescribed by the department. The registration must  
27 include:

28 (i) the name, address and telephone number of each  
29 owner and operator of the electronic waste collection  
30 site; and

1           (ii) the name, address and telephone number of the  
2 electronic waste collection site. A person who commences  
3 the operation of an electronic waste collection site  
4 after the effective date of this subsection must register  
5 with the department at least 30 days prior to receiving  
6 electronic waste at the collection site. A registration  
7 shall be effective upon acceptance by the department. If  
8 a collection site is operated by a retailer, a single  
9 registration listing the name, address and telephone  
10 number of the individual collection sites may be  
11 submitted covering all of the retailer's collection  
12 sites.

13           (2) Beginning with the immediately succeeding March 1  
14 after the effective date of this subsection, and each March 1  
15 thereafter, each person operating an electronic waste  
16 collection site shall submit to the department an annual  
17 report for the previous calendar year on a form and in the  
18 manner prescribed by the department. Annual reports shall  
19 include the following information:

20           (i) The quantity, by weight, of electronic waste  
21 received from consumers in this Commonwealth.

22           (ii) The name and address of each person to whom the  
23 electronic waste collection site sent electronic waste  
24 during the reporting period, with the quantity, by  
25 weight, of electronic waste that was sent to each person.

26           (iii) The weight of electronic waste collected on  
27 behalf of or under an agreement with each manufacturer  
28 during the reporting period.

29           (3) Manage electronic waste in a manner that complies  
30 with applicable Federal, State and local laws, regulations

1 and ordinances.

2 (4) Store electronic waste:

3 (i) in a fully enclosed building with a roof, floor  
4 and walls; or

5 (ii) in a secure container that is constructed and  
6 maintained to minimize breakage of electronic waste and  
7 to prevent releases of hazardous materials to the  
8 environment.

9 (5) Remove electronic waste from the site within one  
10 year of the waste's receipt at the site and maintain records  
11 demonstrating compliance with this requirement.

12 (e) Electronic waste consolidation facility registration.--

13 (1) Within 30 days of the effective date of this  
14 subsection, each person who operates an electronic waste  
15 consolidation facility in this Commonwealth shall register  
16 with the department on a form and in a manner prescribed by  
17 the department. The registration must include:

18 (i) The name, address and telephone number of the  
19 owner and operator of the facility.

20 (ii) The name, address and telephone number of the  
21 electronic waste consolidation facility. A person who  
22 commences the operation of an electronic waste  
23 consolidation facility after the effective date of this  
24 subsection shall register with the department at least 30  
25 days prior to receiving any electronic waste. A  
26 registration shall be effective upon acceptance by the  
27 department. A registration required under this  
28 subparagraph must be accompanied by a registration fee of  
29 \$250.

30 (2) Beginning with the immediately succeeding March 1

1 after the effective date of this subsection, and each March 1  
2 thereafter, each person operating an electronic waste  
3 consolidation facility shall submit to the department an  
4 annual report for the previous calendar year on a form and in  
5 the manner prescribed by the department. The department may  
6 require annual reports to be filed electronically. Annual  
7 reports shall include the following information:

8 (i) The name and address of each electronic waste  
9 collection site from which the consolidation facility  
10 received electronic waste during the reporting period,  
11 with the quantity, by weight, of electronic waste  
12 received from each collection site.

13 (ii) The name and address of each person to whom the  
14 electronic waste consolidation facility sent electronic  
15 waste during the reporting period, with the quantity, by  
16 weight, of electronic waste that was sent to each person.

17 (iii) The weight of electronic waste collected on  
18 behalf of or pursuant to an agreement with each  
19 manufacturer during the reporting period.

20 (iv) A certification by the owner or operator of the  
21 electronic waste consolidation facility that the facility  
22 has complied with the requirements of this act and other  
23 applicable laws.

24 (3) Each person operating an electronic waste  
25 consolidation facility shall:

26 (i) Manage electronic waste in a manner that  
27 complies with applicable Federal, State and local laws,  
28 regulations and ordinances.

29 (ii) Store electronic waste:

30 (A) in a fully enclosed building with a roof,

1 floor and walls; or

2 (B) in a secure container that is constructed  
3 and maintained to minimize breakage of electronic  
4 waste and to prevent releases of hazardous materials  
5 to the environment.

6 (iii) Have a means to control entry to the active  
7 portion of the facility.

8 (iv) Inform each employee who handles or has  
9 responsibility for managing electronic waste about the  
10 proper handling of and emergency procedures appropriate  
11 to each type of electronic waste handled at the facility.

12 (v) Remove electronic waste from the site within one  
13 year of the waste's receipt at the site and maintain  
14 records demonstrating compliance with this requirement.

15 (vi) Maintain the records required under paragraphs  
16 (1) and (2) and subparagraph (v) on site and make the  
17 records available for audit and inspection by the  
18 department for a period of at least three years.

19 (4) A person operating an electronic waste consolidation  
20 facility may not engage in electronic waste recycling unless  
21 the person is registered as an electronic waste recycling  
22 facility and complies with the requirements of this section  
23 that are applicable to each type of facility.

24 (5) A person operating an electronic waste consolidation  
25 facility may accept electronic waste in the same manner as an  
26 electronic waste collection site if the person complies with  
27 the requirements of this section that are applicable to  
28 electronic waste collection sites.

29 (f) Electronic waste recycling facility registration.--

30 (1) Within 30 days of the effective date of this



1 subsection, each person operating an electronic waste  
2 recycling facility in this Commonwealth shall register with  
3 the department on a form and in the manner prescribed by the  
4 department. The registration shall include:

5 (i) The name, address and telephone number of the  
6 owner and operator of the facility.

7 (ii) The name, address and telephone number of the  
8 electronic waste recycling facility. A person who  
9 commences the operation of an electronic waste recycling  
10 facility after the effective date of this subsection  
11 shall register with the department at least 30 days prior  
12 to receiving electronic waste. A registration shall be  
13 effective upon acceptance by the department. A  
14 registration required under this paragraph must be  
15 accompanied by a registration fee of \$250.

16 (2) Beginning with the immediately succeeding March 1  
17 after the effective date of this subsection, and each March 1  
18 thereafter, each person operating an electronic waste  
19 recycling facility shall submit to the department an annual  
20 report for the previous calendar year on a form and in a  
21 manner prescribed by the department. Annual reports shall  
22 include the following information:

23 (i) The quantity, by weight, of electronic waste  
24 received from consumers in this Commonwealth.

25 (ii) The name and address of each electronic waste  
26 collection site and electronic waste consolidation  
27 facility from which electronic waste was received during  
28 the reporting period, with the quantity, by weight, of  
29 electronic waste received from each person.

30 (iii) The name and address of each person to whom

1 the facility sent electronic waste or component materials  
2 during the reporting period, with the quantity, by  
3 weight, of electronic waste or component materials of  
4 electronic waste sent to each person.

5 (iv) The weight of electronic waste collected on  
6 behalf of or pursuant to an agreement with each  
7 manufacturer during the reporting period.

8 (v) A certification by the owner or operator of the  
9 facility that the facility has complied with the  
10 requirements of this act and other laws, rules and  
11 regulations.

12 (3) Each person operating an electronic waste recycling  
13 facility shall:

14 (i) Manage and recycle electronic waste in a manner  
15 that complies with applicable Federal, State and local  
16 laws, regulations and ordinances.

17 (ii) Store electronic waste:

18 (A) in a fully enclosed building with a roof,  
19 floor and walls; or

20 (B) in a secure container that is constructed  
21 and maintained to minimize breakage of electronic  
22 waste and to prevent releases of hazardous materials  
23 to the environment.

24 (iii) Have a means to control entry through gates or  
25 other entrances to the active portion of the facility.

26 (iv) Inform each employee who handles or has  
27 responsibility for managing electronic waste about proper  
28 handling of and emergency procedures appropriate to each  
29 type of electronic waste handled at the facility.

30 (v) Remove electronic waste from the site within one

1 year of the waste's receipt at the site and maintain  
2 records demonstrating compliance with this requirement.

3 (vi) Maintain the records required under paragraphs  
4 (1) and (2) and subparagraph (v) on site and make the  
5 records available for audit and inspection by the  
6 department for a period of at least three years.

7 (4) A person operating an electronic waste recycling  
8 facility may also operate a facility as an electronic waste  
9 consolidation facility if the person complies with the  
10 requirements of this section that are applicable to each type  
11 of facility. If a facility is operated for both purposes,  
12 only one registration fee must be paid.

13 (5) A person operating an electronic waste recycling  
14 facility may accept electronic waste in the same manner as an  
15 electronic waste collection site if the person complies with  
16 the requirements of this section that are applicable to  
17 electronic waste collection sites.

18 (6) Except as required under law, a manufacturer or  
19 person operating an electronic waste collection site,  
20 electronic waste consolidation facility or electronic waste  
21 recycling facility shall not have responsibility or liability  
22 for data in any form stored on electronic waste surrendered  
23 for recycling or reuse, except if the person misuses or  
24 knowingly and intentionally, or with gross negligence,  
25 discloses the data. This paragraph shall not prohibit a  
26 person from entering into an agreement that provides for the  
27 destruction of data on covered electronic equipment.

28 Section 3. Section 305(b) (1), (3) and (6) and (c) of the act  
29 are amended and the subsections are amended by adding paragraphs  
30 to read:

1 Section 305. Manufacturer plan and reporting.

2 \* \* \*

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

5 (1) [Methods that will be used to collect the covered  
6 devices, including the name and locations of proposed  
7 collection sites.] Methods that will be used for the  
8 collection, handling and recycling or reuse of electronic  
9 waste under section 305.1 in a manner convenient to  
10 consumers. The following acceptance methods shall be  
11 considered reasonably convenient:

12 (i) mail or ship back return programs;

13 (ii) collection or acceptance events conducted by  
14 the manufacturer or the manufacturer's agent or designee,  
15 including events conducted through local governments or  
16 private parties;

17 (iii) fixed acceptance locations such as dedicated  
18 acceptance sites operated by the manufacturer or the  
19 manufacturer's agent or designee;

20 (iv) agreements with local governments, retail  
21 stores, sales outlets and not-for-profit organizations  
22 that have agreed to provide facilities for the collection  
23 of electronic waste;

24 (v) community collection events; and

25 (vi) any combination of the methods under this  
26 paragraph or other acceptance methods which effectively  
27 provide for the acceptance of electronic waste for  
28 recycling or reuse through means that are available and  
29 reasonably convenient to consumers in this Commonwealth.

30 (1.1) The manufacturer must ensure that all counties of

1 this Commonwealth, and each municipality which has a  
2 population of at least 25,000 have at least one method of  
3 acceptance that is available within the county or  
4 municipality. Each facility should be adequately staffed and  
5 be open during hours convenient for local residents. The  
6 department may establish additional requirements to ensure  
7 convenient collection from consumers.

8 \* \* \*

9 (3) [Means that will be utilized to publicize the  
10 collection opportunities, including specification of an  
11 Internet website address or toll-free telephone number that  
12 provides information about the manufacturer's program in  
13 sufficient detail to allow consumers to learn how to return  
14 their covered devices for recycling.] A public education  
15 program to inform consumers about the manufacturer's  
16 electronic waste acceptance program, including:

17 (i) A publicly accessible Internet website and a  
18 toll-free telephone number and written information  
19 included in the product manual for, or at the time of  
20 sale of, covered electronic equipment that provides  
21 sufficient information to allow a consumer of covered  
22 electronic equipment to learn how to return the covered  
23 equipment for recycling or reuse. For manufacturers of  
24 computers, hard drives and other covered electronic  
25 equipment that have internal memory on which personal or  
26 other confidential data can be stored, the website must  
27 provide instructions for how consumers can destroy the  
28 data before surrendering the products for recycling or  
29 reuse.

30 (ii) Advertisements and press releases, if any.

1 \* \* \*

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

10 (7) Information on how consumers can destroy data on  
11 electronic waste, through physical destruction of the hard  
12 drive or through data wiping.

13 (8) Any other information required by the department in  
14 accordance with regulations promulgated under this article.

15 (c) Reporting by manufacturers.--

16 [(1) (i) In addition to reporting all brands under  
17 which its covered devices are offered for sale,  
18 regardless of whether the manufacturer owns or licenses  
19 the brand, the manufacturer's annual report to the  
20 department shall include an estimate of the total weight  
21 of its covered devices sold to households during the  
22 previous year calculated by multiplying the weight of its  
23 covered devices sold nationally times the quotient of  
24 this Commonwealth's population divided by the national  
25 population.]

26 (ii) The report required under this paragraph shall  
27 be submitted to the department upon initial registration  
28 and then by January 30 each year thereafter.]

29 (1.1) Beginning with the immediately succeeding March 1  
30 after the effective date of this paragraph, and each March 1

1 thereafter, a manufacturer that offers covered electronic  
2 equipment for sale in this Commonwealth shall submit a report  
3 to the department on a form prescribed by the department that  
4 includes the following:

5 (i) Sales data reported by weight for the  
6 manufacturer's covered devices sold in this Commonwealth  
7 for the previous three calendar years, categorized by  
8 type to the extent known. If the manufacturer cannot  
9 provide accurate Commonwealth sales data, the  
10 manufacturer must explain why the data cannot be provided  
11 and estimate Commonwealth sales data by:

12 (A) dividing the manufacturer's national sales  
13 data by weight by the national population according  
14 to the most recent census and multiplying the result  
15 by the population of this Commonwealth; or

16 (B) another method approved by the department.

17 (ii) The quantity, by weight, of electronic waste  
18 collected for recycling or reuse in this Commonwealth,  
19 categorized by the type of covered devices collected  
20 during the reporting period, the methods used to accept  
21 the electronic waste and the approximate weight of  
22 electronic waste accepted by each method used to the  
23 extent known.

24 (iii) Quantities of electronic waste reported by the  
25 manufacturer must separately include:

26 (A) The quantity, by weight, of electronic waste  
27 received directly from consumers in this Commonwealth  
28 through a mail-back program.

29 (B) The name and address of each electronic  
30 waste collection site, electronic waste consolidation

1 facility and electronic waste recycling facility at  
2 which electronic waste from consumers was received on  
3 behalf of the manufacturer during the reporting  
4 period, along with the quantity, by weight, of  
5 electronic waste received.

6 (C) The name and address of each person to whom  
7 the manufacturer sent electronic waste or component  
8 materials during the reporting period, along with the  
9 quantity, by weight, of electronic waste or component  
10 materials of electronic waste sent to each person.

11 (iv) The number of electronic waste acceptance  
12 credits purchased, sold, banked and traded during the  
13 reporting period, the number of electronic waste  
14 acceptance credits used to meet the requirements of  
15 section 305.1, from whom the credits were purchased and  
16 to whom the credits were sold or traded and the number of  
17 electronic waste acceptance credits retained as of the  
18 date of the report.

19 (v) The amount of each recycling surcharge owed for  
20 the reporting period, with sufficient information to  
21 demonstrate the basis for calculation of the surcharge.

22 (vi) Each name and location of electronic waste  
23 recycling facilities utilized by the manufacturer and  
24 entities to which electronic waste is sent for reuse,  
25 inside or outside of this Commonwealth, including details  
26 on the methods of recycling or reuse of electronic waste,  
27 any disassembly or physical recovery operation used and  
28 the environmental management measures implemented by the  
29 recycling facility or entity.

30 (vii) Information detailing the acceptance methods



1 made available to consumers in municipalities which have  
2 a population greater than 25,000 and in each county of  
3 this Commonwealth to meet the requirements of subsection  
4 (b)(1).

5 (viii) A brief description of the manufacturer's  
6 public education program, including the number of visits  
7 to the publicly accessible Internet website and calls to  
8 the toll-free telephone number provided by the  
9 manufacturer.

10 (ix) Any other information as required by the  
11 department.

12 (x) A signature by an officer, director or other  
13 individual affirming the accuracy of the report.

14 (1.2) The department may require annual reports to be  
15 filed electronically.

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

26 \* \* \*

27 Section 4. The act is amended by adding a section to read:

28 Section 305.1. Manufacturer collection.

29 (a) Acceptance of covered devices.--On and after the  
30 effective date of this section, a manufacturer of covered

1 devices must accept for collection, handling and recycling or  
2 reuse:

3 (1) Electronic waste for which the electronic waste is  
4 provided by the manufacturer. The electronic waste shall  
5 count toward the amount of electronic waste required to be  
6 accepted under this section.

7 (2) One piece of electronic waste of any manufacturer's  
8 brand if offered by a consumer as part of a transaction to  
9 purchase a covered device of the same type. The electronic  
10 waste shall count toward the amount of the electronic waste  
11 required to be accepted under this section.

12 (3) Orphan products in an amount equivalent to the  
13 manufacturer's market share of each orphan product presented  
14 for collection, as determined under subsection (d)(2).

15 (b) Acceptance of standard.--On and after the effective date  
16 of this section, each manufacturer must accept for collection,  
17 handling and recycling or reuse the manufacturer's acceptance  
18 standard under subsection (d).

19 (c) Statewide recycling or reuse goal.--

20 (1) For the first calendar year beginning after the  
21 effective date of this section, the Statewide recycling or  
22 reuse goal for electronic waste shall be the product of the  
23 latest population estimate for this Commonwealth, as  
24 published by the United States Census Bureau, multiplied by  
25 three pounds.

26 (2) For the second calendar year beginning after the  
27 effective date of this section, the Statewide recycling or  
28 reuse goal for electronic waste shall be the product of the  
29 latest population estimate for this Commonwealth, as  
30 published by the United States Census Bureau, multiplied by

1 four pounds.

2 (3) For the third calendar year beginning after the  
3 effective date of this section, the Statewide recycling or  
4 reuse goal for electronic waste shall be the product of the  
5 latest population estimate for this Commonwealth, as  
6 published by the United States Census Bureau, multiplied by  
7 five pounds.

8 (4) For the fourth calendar year beginning after the  
9 effective date and annually thereafter, the Statewide  
10 recycling or reuse goal for electronic waste shall be the  
11 product of the base weight multiplied by the goal attainment  
12 percentage. For the purposes of this paragraph, the term  
13 "base weight" means the greater of:

14 (i) the average weight of electronic waste collected  
15 for recycling or reuse during the previous three calendar  
16 years as reported to the department under section 305(c)  
17 (1); or

18 (ii) the three-year average of the sum of  
19 electronic waste collected for recycling or reuse during  
20 the previous three calendar years based on information  
21 reported to the department under section 304(d), (e) and  
22 (f).

23 (5) For the purposes of this subsection, the term "goal  
24 attainment percentage" means:

25 (i) Ninety percent if the base weight is less than  
26 90% of the Statewide recycling or reuse goal for the  
27 previous calendar year.

28 (ii) Ninety-five percent if the base weight is at  
29 least 90% but does not equal 95% of the Statewide  
30 recycling or reuse goal for the previous calendar year.

1           (iii) One hundred percent if the base weight is at  
2           least 95% but does not equal 105% of the Statewide  
3           recycling or reuse goal for the previous calendar year.

4           (iv) One hundred five percent if the base weight is  
5           at least 105% but does not equal 110% of the Statewide  
6           recycling or reuse goal for the previous calendar year.

7           (v) One hundred ten percent if the base weight is at  
8           least 110% of the Statewide recycling or reuse goal for  
9           the previous calendar year.

10       (d) Manufacturer acceptance standard.--

11           (1) Calculated annually, each manufacturer's acceptance  
12           standard shall be the product of the Statewide recycling or  
13           reuse goal under subsection (c) (1), (2), (3) or (4), as  
14           appropriate, multiplied by the manufacturer's market share  
15           under subsection (e).

16           (2) Each manufacturer's market share and orphan product  
17           share of electronic waste shall be determined by the  
18           department based on the manufacturer's percentage share of  
19           the total weight of covered electronic equipment sold as  
20           determined by the best available information, including  
21           Commonwealth sales data reported by weight. On an annual  
22           basis, the department shall provide each manufacturer with a  
23           determination of the manufacturer's market share and orphan  
24           product share of electronic waste which shall be the quotient  
25           of the total weight of the manufacturer's covered electronic  
26           equipment sold to persons in this Commonwealth based on the  
27           average annual retail sales during the preceding three  
28           calendar years, as reported under sections 304(a) (3) and  
29           305(c) divided by the total weight of each manufacturer  
30           covered electronic equipment sold to persons in this

1 Commonwealth based on the average annual retail sales during  
2 the preceding three calendar years, as reported under  
3 sections 304(a)(3) and 305(c).

4 (e) Recycling surcharge.--Beginning in the third calendar  
5 year after the effective date of this section, a manufacturer  
6 that fails to meet its manufacturer's acceptance standard for  
7 the previous calendar year under subsection (d) shall be subject  
8 to a recycling surcharge, determined as follows:

9 (1) If a manufacturer accepts at least 90% but less than  
10 100% of its manufacturer's acceptance standard under  
11 subsection (d), the recycling surcharge shall be 30¢  
12 multiplied by the number of additional pounds of electronic  
13 waste that should have been accepted by the manufacturer.

14 (2) If a manufacturer accepts at least 50% but less than  
15 90% of its manufacturer's acceptance standard under  
16 subsection (d), the recycling surcharge shall be 40¢  
17 multiplied by the number of additional pounds of electronic  
18 waste that should have been accepted by the manufacturer.

19 (3) If a manufacturer accepts less than 50% of its  
20 manufacturer's acceptance standard under subsection (d), the  
21 surcharge shall be 50¢ multiplied by the number of additional  
22 pounds of electronic waste that should have been accepted by  
23 the manufacturer.

24 (f) Payment.--The recycling surcharge shall be paid to the  
25 department with the annual report required under section 305(c).

26 (g) Electronic waste acceptance credits.--Beginning with the  
27 fourth calendar year after the effective date of this section,  
28 if a manufacturer accepts more than its manufacturer's  
29 acceptance standard under subsection (d), the excess weight may  
30 be used as electronic waste acceptance credits and may be sold,

1 traded or banked for a period no longer than three calendar  
2 years after the year in which the credits were earned. No more  
3 than 25% of a manufacturer's obligation for a calendar year may  
4 be met with recycling credits generated in a prior calendar  
5 year.

6 Section 5. Section 306 of the act is amended to read:

7 Section 306. Retailer responsibility.

8 (a) Public notice.--A retailer shall notify customers about  
9 the manner in which to recycle a covered device and of the  
10 locations for the collection and return of covered devices. This  
11 notification shall occur either by posting the information  
12 within the retail location, by providing the department's toll-  
13 free telephone number, a publicly accessible Internet website or  
14 both or by providing retailer-developed information.

15 (b) Compliance.--A retailer shall comply with sections  
16 302(a) and (c) and 303.

17 (c) Additional responsibilities.--

18 (1) A manufacturer shall maintain records demonstrating  
19 compliance with this act and make the records available for  
20 audit and inspection by the department for a period of at  
21 least three years.

22 (2) A manufacturer shall be responsible for each cost  
23 associated with the implementation of the electronic waste  
24 acceptance program.

25 (3) A manufacturer may not charge consumers for the  
26 collection, handling and recycling and reuse of electronic  
27 waste, except for a charge on business consumers or a charge  
28 for premium services. This paragraph shall not apply to a  
29 manufacturer's contract with a consumer for the collection,  
30 handling, recycling or reuse of electronic waste that was

1 entered into prior to the effective date of this  
2 subparagraph.

3 (d) Definitions.--As used in this section, the following  
4 words and phrases shall have the meanings given to them in this  
5 subsection unless the context clearly indicates otherwise:

6 "Business consumer." A for-profit entity which has at least  
7 50 full-time employees or a not-for-profit corporation with at  
8 least 75 full-time employees. The term shall not include a not-  
9 for-profit corporation designated under section 501(c)(3) of the  
10 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
11 501(c)(3)).

12 "Premium services." Equipment and data security services,  
13 refurbishment for reuse by the consumer and other custom  
14 services as may be determined by the department.

15 Section 6. Section 501 of the act is amended by adding a  
16 paragraph to read:

17 Section 501. Duties of department.

18 The department shall:

19 \* \* \*

20 (6) Determine the market share and orphan product share  
21 for each registered manufacturer.

22 Section 7. This act shall take effect in 60 days.