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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 708 Session of
2009

INTRODUCED BY ROSS, THOMAS, ARGALL, CARROLL, CLYMER, CREIGHTON, DePASQUALE, FLECK, GEORGE, GIBBONS, HESS, JOSEPHS, MANDERINO, MANN, McGEEHAN, MELIO, MILLER, MILNE, MURT, M. O'BRIEN, O'NEILL, PRESTON, QUINN, REICHLEY, SCAVELLO, SIPTROTH, SONNEY, STERN, VULAKOVICH, WANSACZ, WATSON, HOUGHTON, FREEMAN, BRIGGS, BRADFORD, FRANKEL, M. SMITH, 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,
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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
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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
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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~~ <--
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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.

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

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

"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.

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

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

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

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

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

"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.

"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.~~

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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).

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

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

(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.

(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.

(a) Manufacturers registration.--

(1) A manufacturer of new covered devices offered for
24 sale in this Commonwealth shall register with the department
25
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
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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
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~~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

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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

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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.

(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.

(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.

~~(c)~~ (E) Approval of plan.--

<--

(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.

(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

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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).

(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:

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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.

(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. <--

~~(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.

(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
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1 retailer-developed information.

(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:

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

10 Section 504. Fees for collection or recycling of covered

11 ~~computer~~ devices. <--

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

17 Section 505. Environmentally sound management requirements.

18

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

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

27 (1) ALL entities shall, at a minimum, demonstrate to the <--
 28 satisfaction of the department ~~compliance with the~~ <--

29 ~~Environmental Protection Agency's: Guidelines for Materials~~

30 ~~Management of the Partnership referred to as Plug-In to~~

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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
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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
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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
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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.

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CDRA Definition

Covered Device Recycling Act

["Covered Device Recycling Act"](#) (House Bill 708), Act 108 of 2010 - An Act establishing a recycling program for certain covered devices; imposing duties on manufacturers and retailers of certain covered devices; providing for the powers and duties of the Department of Environmental Protection and for enforcement; establishing the Electronic Materials Recycling Account in the General Fund; and prescribing penalties.

"Covered device." A covered computer device and covered television device marketed and intended for use by a consumer.

- Covered computer device - A desktop or notebook computer or computer monitor or peripheral, marketed and intended for use by a consumer.
- Covered television device - An electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable or satellite, including, without limitation, any direct view or projection television with a viewable screen of four inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode or similar technology marketed and intended for use by a consumer primarily for personal purposes.
- Peripheral - A keyboard, printer or any other device sold exclusively for external use with a computer that provides input into or output from the computer.

DEP Central Office Contacts

Division of Waste Minimization and Planning
Bureau of Waste Management
PA Department of Environmental Protection
14th Floor Rachel Carson State Office Building
PO Box 8472
Harrisburg PA 17105-8472
717-787-9871

Larry Holley-- Division Chief, Waste Minimization and Planning
Jeffrey Bednar--Chief, Waste Reduction and Resource Management Section
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The Covered Device Recycling Act (CDRA), Act 108 of 2010 - A General Overview

Electronic products constitute one of the fastest growing streams of today's consumer and commercial waste. In November 2010, the Pennsylvania General Assembly passed the CDRA, which establishes a number of requirements for individuals and entities involved throughout the life cycle of certain "covered" electronic devices. Covered devices include: **desktop computers, laptop computers, computer monitors, computer peripherals, televisions, tablets, and e-readers.**

Outlined below are requirements that address the manufacture, sale, end-of-life collection, management, and recycling of covered devices in Pennsylvania.

Manufacturers of covered devices offered for sale in Pennsylvania:

- Must affix brand labels to their covered devices.
- Must annually register their covered device brands with the Department of Environmental Protection (DEP) by August 31st.
- Must establish and conduct ongoing recycling programs that offer covered device collection opportunities at no cost to consumers. The term "no cost" means no fee may be charged unless a financial incentive, such as a coupon or rebate, of equal or greater value is provided to the consumer. Ongoing collection programs must be maintained and financed for the entire calendar year. The devices collected through these programs must be properly recycled at certified electronics recycling facilities. The recycling plan must be received by DEP by August 31st.
- Must report annual covered device collection and recycling data to DEP by January 31st of each year.

Retailers that offer covered devices for sale in Pennsylvania:

- Must only sell covered devices that are labeled with a brand registered with DEP.
- Must notify customers of how and where they can recycle their covered devices.
- May offer covered device collection opportunities, but, if they do, they must offer them to consumers at no cost. Any devices collected from consumers must be properly recycled at certified recycling facilities.

Electronics Recycling Facilities:

- Whether located in or outside of Pennsylvania, facilities that process or recycle covered devices that are collected from consumers through any electronics collection program in Pennsylvania, whether municipal, manufacturer, retailer, etc., must have achieved and maintained one of the following certifications:
 - R2 (Responsible Recycling Practices Standard) Certification.
 - e-Stewards Certification.
 - An internationally accredited third-party environmental management standard for the safe and responsible handling of covered devices.
- Pennsylvania's Residual Waste Regulations require electronics processing/recycling facilities located in Pennsylvania to obtain a DEP general permit WMGR081 (regarding the processing and beneficial use of electronic equipment and components by sorting, disassembling, or mechanical processing) prior to processing any electronic devices or electronic waste.

The Pennsylvania DEP:

- Will post and maintain a list of registered and non-compliant covered device brands on its website for retailers and consumers to access.
- Will post on its website and make available via its toll-free recycling hotline (800-346-4242) an up-to-date list of all covered device collection opportunities offered to consumers, including those offered by manufacturers and retailers.
- Will review manufacturer covered device collection and recycling plans, and will oversee the implementation of all approved plans to ensure compliance with the CDRA.
- Will encourage the use of existing covered device collection infrastructure to the extent that it is available to at least 85 percent of the state's population, is cost effective, and is environmentally sound.

- Will organize and coordinate public education and outreach regarding the recycling of covered devices, including assisting retailers as necessary in the conduct of their public education and outreach efforts.

A disposal ban on covered devices exists in Pennsylvania. No person may dispose of a covered device, or any of its components, with their municipal solid waste. These devices and their components must be properly recycled and may not be taken to, nor accepted by, landfills, or other solid waste disposal facilities for disposal. However, non-hazardous residuals of covered devices that are produced during the recycling of those devices are excluded from the disposal ban. The effects of the disposal ban are outlined below.

Consumers defined as “An occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or small business use. For purposes of this definition, a small business is an entity that is independently owned or operated, employs 50 or fewer people, has purchased or leased a covered computer device from a computer manufacturer or retailer and, but for the program established under this act, would not otherwise have access to electronic recycling programs.”:

- May not dispose of their covered devices with municipal waste.
- Must take their covered devices to an electronics collection location for proper recycling or place their covered devices for curbside collection if a specific electronics collection program is offered or utilize an approved mail-back program to recycle their covered devices.

Businesses:

- May not dispose of their covered devices with municipal waste.
- Must recycle their covered devices. For businesses, the recycling facility to which covered devices are transferred does not need to be certified. If the facility is located in Pennsylvania, it must have a general permit WMGR081 from DEP.

Landfills and Resource Recovery Facilities:

- May not accept covered devices or their components for disposal. However, they may accept non-hazardous residuals produced during the recycling of covered devices.
- Owners and operators of landfills will not be found in violation of the CDRA provided they make a good faith effort to comply with the act; post, in a conspicuous location at the facility, a sign stating that covered devices and their components will not be accepted; and notify, in writing, all collectors registered to deposit solid waste to the facility that covered devices and their components will not be accepted at the facility.

Haulers:

- May not intentionally accept covered devices for disposal from any source of waste, and may not knowingly commingle covered devices with waste destined for disposal.
- Covered devices that are collected from consumers through electronics collection programs in Pennsylvania must be transferred to certified electronics recycling facilities.
- If a hauler is affiliated with a manufacturer’s recycling plan and/or program, they may not charge a consumer for the collection, transportation or recycling of covered devices.

For more information

Visit www.dep.pa.gov > Businesses > Land > Waste > Recycling > Electronics Recycling or, contact the Recycling Hotline at 800-346-4242.

PADEP Electronics Recycling Information

RECYCLING OF COMPUTERS, COMPUTER MONITORS, TELEVISIONS AND OTHER ELECTRONIC DEVICES

Many consumer electronic products contain heavy metals such as lead, cadmium and mercury as well as other materials that are better kept out of the environment. In fact, the typical cathode ray tube computer monitor (non-flat screen model) contains four to seven pounds of lead. Televisions, depending on their size, may contain even more lead.

The Covered Device Recycling Act

A state law was passed in November 2010, the Covered Device Recycling Act (Act 108 of 2010), or CDRA, which addresses the recycling and disposal of certain "covered" electronic devices in Pennsylvania. ***"Covered Devices" include desktop and laptop computers, computer monitors, computer peripherals, tablets, televisions and e-readers that have a browser and internet connectivity.***

The most notable impacts of the CDRA on Pennsylvania residents are the establishment of state-specific manufacturer collection and recycling programs for covered devices and a disposal ban.

Manufacturer Recycling Programs - Since Jan. 1, 2012, manufacturers of covered devices sold or offered for sale in Pennsylvania are required to make collection programs available to Pennsylvania residents for the recycling of their covered devices. Though not required, retailers may also offer collection programs. Both manufacturer and retailer collection programs for covered devices must be free of charge, unless a coupon, rebate or other financial incentive of equal or greater value is supplied.

Disposal Ban - Effective Jan. 24, 2013, landfills and other solid waste disposal facilities in Pennsylvania are no longer allowed to accept covered devices or their components. The CDRA requires that these devices be recycled. The disposal ban may affect the curbside collection of these items by municipal waste pickup programs, unless the program is specific to electronic materials.

Note - Household Hazardous Waste (HHW) programs that collect covered devices for one or more manufacturer-sponsored covered device recycling programs will not be eligible for reimbursement of program costs that are covered by manufacturers under the CDRA. Such costs shall include the program costs for the collection, transportation and recycling of any covered devices that one or more manufacturers has taken responsibility for in order to meet its obligated share. However, costs not mandated to be covered by manufacturers under the CDRA are still eligible for reimbursement under Act 190.

Cost for facilities and equipment will be reviewed on a case-by-case basis. In cases where the predominant costs of the operation are related to the recycling of covered devices, the costs for facilities and equipment will be prorated according to its use.

DEP urges citizens to know the facts to "reduce, reuse and recycle" these and other electronic devices, rather than discard them.

For instance, in the case of computers, DEP strongly recommends that residents:

- ***Reduce*** the need to purchase a replacement computer by buying one with ample capacity for upgrades, selecting one that offers a buy-back option, or leasing instead of buying.
- ***Reuse*** a computer, for example, by giving it as a gift for a student graduation or other occasion, by selling it or by donating it to a school or a nonprofit organization.
- ***Recycle*** a computer by taking it to a collection location that will send it to an electronics recycler.

Why can't electronic devices just be put out with the trash?

On Jan. 24, 2013, a landfill ban on desktop and laptop computers, computer monitors, computer peripherals and televisions went into effect. DEP urges citizens to do their part for the environment by recycling or reusing as many electronic devices as possible in order to limit the number of those items and their hazardous components from entering the environment through landfills and other disposal activities.

If an electronic device that is not included in the ban must be discarded, DEP urges citizens to check with their municipality or county recycling coordinator to find out about local options for proper disposal. To find information on the local county recycling coordinator, visit DEP's website at www.dep.state.pa.us, Select 'Waste,' 'Recycling,' 'Public Resources,' and then 'County Recycling Coordinators,' or contact the Recycling Hotline at 800-346-4242.

Who would want a used computer? It's an old model and it doesn't have many programs.

Remember, "One person's junk is another person's treasure." A friend, children, a non-profit organization or a school might appreciate having an old computer, even if just for word processing.

Where can electronic devices be taken for recycling?

Many electronic items such as cell phones, computers and televisions can be recycled at local retailers that sell the items. The CDRA requires that retailers of computers, computer monitors and televisions provide customers with information on how and where to recycle these devices. Continue to recycle electronics at local municipal or county recycling events.

DEP maintains lists of various electronics recycling opportunities and collection locations on its website including county, municipal, non-profit and retailer and manufacturer sponsored collection programs. To view the current list, visit www.dep.state.pa.us and select 'Electronics Recycling' from the 'DEP Programs A - Z' menu.

Computers shouldn't end up in landfills. What can be done to help?

Encourage friends to join in upgrading their computers when possible or in having their old computers properly recycled. Become aware of those who could benefit from the donation of a computer. Ask the local municipality to consider sponsoring an annual or semi-annual collection of electronics if they do not already do so, or utilize municipal electronics collection events or permanent collection sites if they are already established.

DEP offers grants to municipalities of up to 50 percent of the developmental and operational costs associated with an electronics collection.

Where is there more information?

For more information on the CDRA, visit www.dep.state.pa.us (select 'Electronics Recycling' from the 'DEP Programs A - Z' menu), contact the **Recycling Hotline** at 800-346-4242 or contact:

Pennsylvania Department of Environmental Protection
Bureau of Waste Management
Division of Waste Minimization and Planning
Rachel Carson State Office Building
P.O. Box 8472
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For more information, visit www.dep.state.pa.us, keyword: Electronics Recycling.