

ASSEMBLY, No. 2498

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 9, 2006

Sponsored by:

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District 27 (Essex)

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SYNOPSIS

"Electronic Waste Management Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/12/2006)

1 AN ACT concerning the management of used consumer electronic
2 devices, and amending and supplementing P.L.1987, c.102.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) Sections 1 through 15 of P.L. , c.
8 (C.)(pending before the Legislature as this bill) shall be known
9 and may be cited as the "Electronic Waste Management Act."

10

11 2. (New section) The Legislature finds and declares that the
12 establishment of programs to provide for the collection and
13 recycling of electronic devices in this State is consistent with its
14 duty to protect the health, safety and welfare of its citizens, enhance
15 and maintain the quality of the environment, conserve natural
16 resources and prevent air, water and land pollution; and that such
17 programs are consistent with the overall State solid waste
18 management strategy including its intent to pursue and implement
19 an integrated approach to solid waste management and to
20 aggressively promote waste reduction, reuse and recycling as the
21 preferred methods of solid waste management.

22 The Legislature further finds and declares that personal
23 computers, other electronic devices and televisions contain
24 numerous heavy metals and hazardous substances; that computer
25 monitors have high levels of lead in the glass; that electronics also
26 contain mercury, cadmium, chromium and phosphorous in their
27 cathode ray tubes and circuit boards; that cathode ray tubes are also
28 found in television sets; that the cathode ray tube comprises about
29 two-thirds of the weight of a typical computer workstation; that the
30 lead in a monitor is about eight percent by weight, and the glass
31 more than 18 pounds in a typical 17-inch monitor; that both of these
32 items may be recycled; and that it is necessary to establish
33 comprehensive electronic waste management programs that ensure
34 the safe and environmentally-sound handling, recycling and
35 disposal of these electronic products and components and to
36 encourage the design of electronic products and components that
37 are less toxic and more recyclable.

38 The Legislature further finds and declares that television sets are
39 sold, utilized and discarded with far less frequency than personal
40 computers, due to their long useful life attributes and relative
41 expense, while the functional life of personal computers is
42 relatively short due to rapid advances in technology and steadily
43 declining prices, circumstances that provide ample incentive for
44 consumers to upgrade on almost a biannual basis; that, accordingly,
45 it would be more practical to provide for separate solutions to the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 management of these items as electronic waste; and that it would be
2 advantageous to establish an advance recovery fee at the retail level
3 to discourage the disposal of used television sets as solid waste and
4 to finance a State program of environmentally-sound and proper
5 used television management.

6 The Legislature further finds and declares that it is essential to
7 establish a electronic waste management system for personal
8 computers that is convenient and minimizes cost to the consumer of
9 electronic products and components; that manufacturers of
10 electronic products and components must be financially responsible
11 for ensuring proper handling, recycling and disposal of discarded
12 products and that costs associated with these efforts be internalized
13 by the manufacturers of electronic products and components before
14 the point of purchase.

15 The Legislature further finds and declares that manufacturers of
16 personal computers and electronic devices bear none of the burden
17 or responsibility for safely managing discarded electronics at the
18 end of their useful life, burdening State taxpayers, local
19 governments and end users with these costs and responsibilities;
20 and that it is in the public interest to shift the financial
21 responsibility for the collection and recycling of discarded
22 consumer electronic equipment from the taxpayers of New Jersey to
23 the manufacturers of these products.

24 The Legislature therefore determines that it is in the public
25 interest to limit the volume of used television sets and electronic
26 devices entering New Jersey's solid waste stream; that it is in the
27 public interest to impose an advance recovery fee at the retail level
28 to discourage the improper disposal of used television sets and to
29 fund the recycling and disposal of used televisions; and that the
30 Department of Environmental Protection, in conjunction with the
31 manufacturers, retailers and distributors of electronic devices, shall
32 develop and implement an environmentally-sound strategy for the
33 proper management of used consumer electronic products.

34

35 3. (New section) As used in sections 1 through 15 of P.L. , c.
36 (C.)(pending before the Legislature as this bill):

37 "Business concern" means any corporation, association, firm,
38 partnership, sole proprietorship, trust or other form of commercial
39 organization;

40 "Computer monitor" means a covered electronic device that is a
41 cathode ray tube or flat panel display primarily intended to display
42 information from a central processing unit or the Internet;

43 "Covered electronic device" means a computer central
44 processing unit, a cathode ray tube, a cathode ray tube device, a flat
45 panel display or similar video display device with a screen that is
46 greater than four inches measured diagonally and that contains one
47 or more circuit boards; except that a "covered electronic device"
48 shall not include an automobile or service replacement parts built

1 by or for an automobile manufacturer for use in an automobile, a
2 household appliance, a large piece of commercial or industrial
3 equipment, such as commercial medical equipment, that contains a
4 cathode ray tube, a cathode ray tube device, a flat panel display or
5 similar video display device that is contained within, and is not
6 separate from, the larger piece of equipment, or other medical
7 devices as that term is defined under the "Federal Food, Drug, and
8 Cosmetic Act," 21 U.S.C. s.301 et seq.;

9 "Department" means the Department of Environmental
10 Protection;

11 "Director" means the Director of the Division of Taxation in the
12 Department of the Treasury;

13 "Division" means the Division of Taxation in the Department of
14 the Treasury;

15 "Electronic waste" means a covered electronic device which has
16 been discarded, become obsolete, ceased to function, is no longer
17 wanted by its owner, or for any other reason has become available
18 for recycling or disposal;

19 "Historic electronic waste" means a covered electronic device
20 which became electronic waste prior to the effective date of this act,
21 the manufacturer of which is a business concern still in business as
22 of the effective date of this act;

23 "Manufacturer" means any person that, either as of the effective
24 date of this act or thereafter, and regardless of the selling technique
25 used, including, but not limited to, transactions conducted through
26 sales outlets, catalogs or the Internet: (1) manufactures and sells
27 covered electronic devices under its own brand or sells covered
28 electronic devices produced by other suppliers under its own brand
29 and label; (2) manufactures and sells covered electronic devices
30 without affixing a brand; (3) resells covered electronic devices
31 produced by other suppliers under its own brand and label; or (4)
32 imports or exports covered electronic devices into this State;

33 "Orphan electronic waste" means a covered electronic device, the
34 manufacturer of which cannot be identified, or a covered electronic
35 device manufactured by or bearing the brand name of a business
36 concern which is no longer in business on or after the effective date
37 of this act;

38 "Person" means any individual or business concern;

39 "Recycling" means any process by which materials which would
40 otherwise become solid waste are collected, separated or processed
41 and returned to the economic mainstream in the form of raw
42 materials or products; "recycling" shall not include energy recovery
43 or energy generation by means of incinerating electronic waste
44 whether apart or in combination with other wastes;

45 "Resource recovery facility" means a solid waste facility
46 constructed and operated for the incineration of solid waste for
47 energy production and the recovery of metals and other materials
48 for reuse;

1 "Retailer" means a person who sells covered electronic devices
2 in this State to a consumer. "Retailer" shall include, but is not
3 limited to, a manufacturer of covered electronic devices who sells
4 directly to a consumer through any means, including, but not
5 limited to, transactions conducted through sales outlets, catalogs or
6 the Internet, or any similar electronic means, but not including
7 wholesale transactions with a distributor or other retailer;

8 "Re-use" means any operation by which electronic waste or
9 components thereof are used for the same purpose for which they
10 were conceived, including the continued use of the covered
11 electronic device or components thereof which are returned to
12 recyclers or manufacturers;

13 "Sanitary landfill facility" means a solid waste facility at which
14 solid waste is deposited on or in the land as fill for the purpose of
15 permanent disposal or storage for a period exceeding six months,
16 except that it shall not include any waste facility approved for
17 disposal of hazardous waste; and

18 "Television" means a cathode ray tube or flat panel display
19 primarily intended to receive video programming via broadcast,
20 cable or satellite transmission or video from surveillance or other
21 similar cameras.

22

23 4. (New section) a. There is imposed an advance recovery fee
24 upon the sale of each new television sold at retail. An advance
25 recovery fee of \$10 shall be paid on every new television sold,
26 which shall be separately stated on the invoice or bill of sale.

27 The advance recovery fee imposed under this section shall be
28 added to the total cost to the purchaser at retail after all applicable
29 sales taxes on the television have been computed and shall be
30 separately stated on the invoice or bill of sale.

31 Every retailer shall charge and collect an advance recovery fee
32 from each person purchasing a new television at retail. The
33 advance recovery fees required to be charged and collected pursuant
34 to this subsection shall be remitted to the State with the return filed
35 pursuant to subsection b. of this section. A sale by a wholesaler or
36 distributor to another wholesaler or distributor, a sale by a company
37 to another company owned wholly by the same individuals or
38 companies, or a sale by a wholesaler or distributor owned
39 cooperatively by retailers to those retailers is not subject to the
40 advance recovery fee imposed under this section.

41 b. Every retailer that charges and collects the advance recovery
42 fee on the sale of new televisions imposed pursuant to subsection a.
43 of this section shall file with the director a certificate of registration
44 on a form prescribed by the director. Any retailer who is registered
45 under any law administered by the division or who is subject to and
46 files returns under those these laws shall not be required to comply
47 with the provisions of this subsection.

1 c. Every retailer that charges and collects the advance recovery
2 fee on the sale of new televisions imposed pursuant to subsection a.
3 of this section shall, on or before March 15 of each year, prepare
4 and file a return, under oath, for the preceding calendar year with
5 the director on forms and containing any information as the director
6 shall prescribe. The return shall indicate the total amount of
7 advance recovery fees collected for new televisions and at the same
8 time the retailer shall pay the full amount of advance recovery fees
9 collected and due.

10 d. If a return required by this section is not filed, or if a return
11 when filed is incorrect or insufficient in the opinion of the director,
12 the amount of advance recovery fees due shall be determined by the
13 director based on the number of televisions sold during the previous
14 five years by the retailer liable for the payment of the advance
15 recovery fees. Notice of the determination shall be given to the
16 retailer liable for the payment of the advance recovery fees. The
17 determination shall finally and irrevocably fix the advance recovery
18 fees unless the retailer against whom it is assessed, within 90 days
19 after the giving of the notice of the determination, shall file a
20 protest in writing as provided in R.S.54:49-18 and request a
21 hearing, or unless the director on the director's own motion shall
22 redetermine the same. After the hearing the director shall give
23 notice of the determination to the retailer to whom the advance
24 recovery fees are assessed.

25 e. Any retailer who shall fail to file a return when due or to pay
26 any advance recovery fee when the advance recovery fee becomes
27 due, as herein provided, shall be subject to such penalties and
28 interest as may be provided by law. If the director determines that
29 the failure to comply with any provision of this section was
30 excusable under the circumstances, the director may remit any part
31 of the penalty as shall be appropriate under the circumstances.

32 f. In addition to the other powers granted by this section, the
33 director may:

34 (1) Delegate to any officer or employee of the division those
35 powers and duties as the director may deem necessary to carry out
36 efficiently the provisions of this section, and the person or persons
37 to whom the powers have been delegated shall possess and may
38 exercise all of the powers and perform all of the duties delegated by
39 the director;

40 (2) Prescribe and distribute all necessary forms for the
41 implementation of this section; and

42 (3) Adopt any rules and regulations necessary for the
43 implementation of this section.

44

45 5. (New section) a. The Used Television Management Fund is
46 established as a nonlapsing, revolving fund in the Department of the
47 Treasury. The Used Television Management Fund shall be
48 administered by the Department of Environmental Protection and

1 credited with all advance recovery fees imposed pursuant to section
2 4 of P.L. , c. (C.)(pending in the Legislature as this bill) or
3 penalties imposed pursuant to sections 6 and 11 of P.L. , c.
4 (C.)(pending in the Legislature as this bill). Interest received
5 on moneys in the fund shall be credited to the fund.

6 b. Moneys in the fund shall be appropriated annually solely for
7 the following purposes and no others:

8 (1) To provide grants to counties or municipalities to fund a
9 used television recycling and management program, including the
10 administrative expenses thereof;

11 (2) For the Department of Environmental Protection's actual
12 expenses in administering the grant program;

13 (3) To provide funding for a State used television recycling and
14 management program, including the administrative expenses
15 thereof; and

16 (4) To make recycling payments to authorized used television
17 recyclers.

18 c. Within six months of the effective date of this act, the
19 department shall establish criteria for county or municipal television
20 recycling and management programs. The department shall also
21 develop a grant program to pay for the county and municipal costs
22 of the programs. The department may require the county or
23 municipality, as appropriate, to maintain records of the volume of
24 used televisions collected and recycled and to report to the
25 department the name and address of each authorized recycler and
26 the number of used televisions delivered to each authorized
27 recycler. The department shall make grant awards to the county or
28 municipality, as the case may be, based upon the costs incurred by
29 each county and municipality for its television recycling and
30 management program.

31 In those instances where a county or municipal television
32 recycling and management program has not been adopted, the
33 department shall establish a used television recycling and
34 management program. The department shall identify, and enter into
35 agreements with authorized used televisions recyclers who shall be
36 authorized to accept used televisions from county and municipal
37 collection sites as designated pursuant to sections 3 and 6 of
38 P.L.1987, c.102 (C.13:1E-99.13 and 13:1E-99.16). The department
39 may require the county or municipality, as appropriate, to maintain
40 records of the volume of used televisions collected by each
41 authorized recycler. The department may make payments for the
42 collection and recycling of used televisions to an authorized used
43 television recycler upon receipt of a completed and verified invoice
44 submitted to the department by the authorized recycler in the form
45 and manner determined by the department. The department may
46 determine a per unit payment for the recycling and proper disposal
47 of a used television pursuant to the program.

1 For the purposes of this subsection, "authorized recycler" means
2 a person who: (1) engages in the manual or mechanical separation
3 of covered electronic devices to recover components and
4 commodities contained therein for the purpose of re-use or
5 recycling; or (2) changes the physical or chemical composition of a
6 covered electronic device by deconstructing, size reduction,
7 crushing, cutting, sawing, compacting, shredding, or refining for the
8 purpose of segregating components, and for the purpose of
9 recovering or recycling those components, and who arranges for the
10 transport of those components to an end user.

11

12 6. (New section) a. Within 12 months of the effective date of
13 this act, every manufacturer of covered electronic devices sold,
14 offered for sale, or offered for promotional purposes in this State
15 shall prepare and submit an electronic waste management plan, in
16 writing, to the department, which is designed to meet the
17 manufacturer's financial responsibilities under this act, and which
18 sets forth a strategy for financing the environmentally-sound
19 management of discarded and obsolete covered electronic devices,
20 including orphan electronic waste and historic electronic waste.

21 The provisions of this section shall not apply to a manufacturer
22 of televisions or the management of discarded or obsolete
23 televisions.

24 b. Every manufacturer shall be responsible for financing the
25 environmentally-sound management of the electronic waste from its
26 own products, as well as its proportionate share of orphan electronic
27 waste and historic electronic waste in this State, as determined by
28 the department, but may execute this obligation through individual
29 financing schemes or in cooperation with other manufacturers.

30 c. Consumers and covered electronic device end users may be
31 responsible for delivering electronic waste into the collection
32 system, including collection sites designated in the district recycling
33 plans as required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-
34 99.13), as may be provided for in the electronic waste management
35 plan; provided, however, that a manufacturer may include direct
36 collection, reverse delivery systems, or reverse logistics systems in
37 the electronic waste management plan.

38 d. Consumers shall not be charged to return electronic waste.

39 e. Any manufacturer that fails to submit an electronic waste
40 management plan within the time provided for in this section is
41 subject to a fine of not more than the equivalent of \$25 per
42 individual covered electronic device sold by that manufacturer
43 during the previous calendar year.

44 Any penalty imposed pursuant to this subsection may be
45 collected, with costs, in a summary proceeding pursuant to the
46 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
47 et seq.). The Superior Court and the municipal court shall have

1 jurisdiction to enforce the provisions of the "Penalty Enforcement
2 Law of 1999" in connection with this act.

3

4 7. (New section) a. Each electronic waste management plan
5 submitted by a manufacturer shall provide, at a minimum, that the
6 manufacturer will participate in a national collection program for
7 used computer monitors that will be fully implemented in this State
8 and that the collection program will be consistent with the
9 requirements of this section and with the performance standards
10 established by the department.

11 b. The department shall not approve an electronic waste
12 management plan unless the department finds, in writing, that the
13 plan, or the collection program, will provide:

14 (1) An effective system for financing the collection, treatment,
15 recovery, re-use, and disposition of all covered electronic devices
16 sold, offered for sale, or offered for promotional purposes in this
17 State by the manufacturer;

18 (2) A plan for financing that manufacturer's proportionate share
19 of orphan electronic waste and historic electronic waste in this
20 State, as determined by the department, as of the effective date of
21 the manufacturer's financial obligation;

22 (3) A plan for complying with the labeling, consumer
23 notification, and public education requirements of this act that are
24 necessary to ensure the protection of covered electronic device
25 users, processors and recyclers, and ensure participation in the
26 manufacturer's plan;

27 (4) Documentation of the willingness of all necessary parties
28 involved to implement the proposed plan, and assurances that the
29 plan will comply with all applicable State and local environmental
30 laws and regulations;

31 (5) A description of the performance measures to be used and
32 reported by the manufacturer to the department to demonstrate that
33 the collection system is meeting the measures of the collection
34 program's effectiveness required by the department; and

35 (6) A description of the alternative or additional actions that will
36 be implemented by the manufacturer to improve the collection,
37 recovery and recycling systems in the event that the collection
38 program targets are not met.

39 c. The department may, in accordance with a fee schedule
40 adopted as a rule or regulation pursuant to the provisions of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), establish and charge reasonable fees for any of the services to
43 be performed in connection with this section, which shall cover the
44 full costs incurred by the department for the review of proposed
45 electronic waste management plans and for other costs incurred by
46 the department for implementation of this act.

47 d. Upon a determination by the department that a manufacturer
48 is not meeting the performance standards established pursuant to

1 this act relating to the reduction or elimination of hazardous
2 materials and to the collection and recycling of electronic waste, the
3 department may order the manufacturer to take actions the
4 department deems necessary to achieve the performance standards.

5 e. Any manufacturer that fails to meet any of the requirements
6 of this section within the time frame required shall be prohibited
7 from selling covered electronic devices in this State.

8
9 8. (New section) a. The electronic waste management plans
10 required pursuant to this act shall be submitted to, reviewed by, and
11 approved or disapproved by the department on a timely basis. Plans
12 shall be evaluated based upon their sufficiency in light of all the
13 required elements and the department shall develop a means for
14 scoring initial submission and providing feedback to manufacturers
15 for integration into their final approved electronic waste
16 management plans.

17 b. Reports detailing performance of the manufacturer's financial
18 responsibility program and detailing compliance with all the
19 requirements set forth herein shall be submitted to the department
20 no later than January 1 of each year. All such reports shall be
21 reviewed within six months of their submission and notices of
22 deficiency or noncompliance provided by the department to
23 manufacturers by the end of the following quarter.

24 c. Annual reports required under this section, and all other
25 reports outlining the results of the implementation of a
26 manufacturer's electronic waste management plan for the current
27 year and two prior years, shall be made available to the general
28 public through the Internet, or upon request, at cost.

29
30 9. (New section) a. Any manufacturer of covered electronic
31 devices sold, offered for sale, or offered for promotional purposes
32 in this State that is not in compliance with the provisions of section
33 7 of this act is prohibited from offering a covered electronic device
34 for sale in this State. A manufacturer not in compliance with the
35 provisions of section 7 of this act shall provide the necessary
36 support to retailers to ensure the manufacturer's covered electronic
37 devices are not offered for sale in this State.

38 b. A retailer may not offer for sale in this State a covered
39 electronic device of a manufacturer that is not in compliance with
40 the provisions of section 7 of this act.

41
42 10. (New section) a. No person shall knowingly dispose of
43 electronic waste, including the constituent sub-units, or a used
44 television, as solid waste.

45 b. No solid waste collector registered pursuant to sections 4 and
46 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) shall, at any time,
47 knowingly collect electronic waste, including the constituent

1 sub-units, or a used television, placed for collection and disposal as
2 solid waste.

3 c. A solid waste collector may refuse to collect the contents of a
4 solid waste container containing a visible quantity of used
5 televisions or electronic waste, including the constituent sub-units.

6 d. No sanitary landfill facility or resource recovery facility in
7 this State shall knowingly accept for disposal any truckload or
8 roll-off container of solid waste containing a visible quantity of or a
9 used televisions or electronic waste, including the constituent
10 sub-units, at any time.

11 e. The owner or operator of a sanitary landfill facility or
12 resource recovery facility may refuse to accept for disposal any
13 truckload or roll-off container of solid waste containing a visible
14 quantity of used televisions or electronic waste, including the
15 constituent sub-units.

16

17 11. (New section) a. Any person who violates the provisions of
18 subsection a. of section 10 of this act shall be subject to a penalty of
19 not less than \$500 nor more than \$1,000 for each offense, to be
20 collected in a civil action by a summary proceeding under the
21 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
22 et seq.), or in any case before a court of competent jurisdiction
23 wherein injunctive relief has been requested. The Superior Court
24 and the municipal court shall have jurisdiction to enforce the
25 provisions of the "Penalty Enforcement Law of 1999" in connection
26 with this act.

27 If the violation is of a continuing nature, each day during which
28 it continues constitutes an additional, separate, and distinct offense.

29 b. Any person who violates the provisions of subsections b., c.,
30 d. or e. of section 10 of this act commits a disorderly persons
31 offense.

32 Any person convicted of a violation of the provisions of
33 subsections b., c., d. or e. of section 10 of this act is subject to a fine
34 of not less than \$2,500 for a first offense, not more than \$5,000 for
35 a second offense and not more than \$10,000 for a third and every
36 subsequent offense. Each day during which the violation continues
37 constitutes an additional, separate and distinct offense.

38 c. The department may institute a civil action for injunctive
39 relief to enforce this act and to prohibit and prevent a violation of
40 this act, and the court may proceed in the action in a summary
41 manner.

42

43 12. (New section) a. Within 12 months of the effective date of
44 this act, every manufacturer of televisions or covered electronic
45 devices sold, offered for sale, or offered for promotional purposes
46 in this State shall phase-out the use of lead, mercury, cadmium,
47 hexavalent chromium, brominated flame retardants, and polyvinyl

1 chloride and only offer for sale televisions and covered electronic
2 devices that contain less harmful alternatives.

3 b. If a manufacturer provides sufficient demonstration to the
4 department that it is technically impossible to use an alternative
5 substance, a limited term exemption may be issued by the
6 department. An exemption shall be rescinded by the department
7 when the department determines, in writing, that a less harmful
8 alternative for the substance can be used.

9 c. If the exemption is granted by the department, the department
10 may assign a limited amount of time before the exemption expires
11 to ensure that manufacturers are investing in research and
12 development to identify an appropriate less harmful alternative.

13

14 13. (New section) a. Within 12 months of the effective date of
15 this act, all televisions and covered electronic devices sold, offered
16 for sale, or offered for promotional purposes in this State shall be
17 clearly marked or labeled, or informational materials shall be
18 provided with the new product, which provide consumers and end
19 users with information relating to the following:

20 (1) the visible, permanent label affixed to the television or
21 covered electronic device clearly identifies the manufacturer of that
22 television or covered electronic device;

23 (2) the hazardous materials contained in the television or
24 covered electronic devices and the parts or sub-units which contain
25 the particular substances;

26 (3) the requirements not to dispose of televisions or covered
27 electronic devices in sanitary landfill facilities, resource recovery
28 facilities or any other means not approved as part of the
29 manufacturer's electronic waste management plan; and

30 (4) a toll-free phone number and Internet web site address where
31 consumers can obtain information and instructions about the safe
32 collection of the covered electronic device through the
33 manufacturer's electronic waste management plan.

34 b. As part of an approved electronic waste management plan, a
35 manufacturer shall implement a consumer education plan that will
36 provide consumers with information about:

37 (1) the prohibition on disposal of electronic waste by any means
38 not included as part of the manufacturer' approved electronic waste
39 management plan;

40 (2) the electronic waste return and collection systems available
41 to them;

42 (3) the potential effects on the environment and human health as
43 a result of the presence of hazardous substances contained in
44 covered electronic devices and the dangers of improper disposal;
45 and

46 (4) the consumers' and covered electronic devices users' roles in
47 contributing to the re-use, recycling, and other forms of electronic
48 waste recovery.

1 14. (New section) a. The provisions of P.L.1971, c.257
2 (C.52:34-21 et seq.) or any rules and regulations adopted pursuant
3 thereto to the contrary notwithstanding, no later than six months
4 following the effective date of this act the Director of the Division
5 of Purchase and Property in the Department of the Treasury shall
6 establish purchasing and procurement policies requiring vendors of
7 covered electronic devices sold to the State to take back electronic
8 waste when the equipment becomes obsolete, is discarded or is
9 otherwise taken out of service.

10 b. Notwithstanding other policies or guidelines for the
11 procurement of equipment, supplies and other products, the
12 Director of the Division of Purchase and Property in the Department
13 of the Treasury shall, upon consultation with the department, review
14 and modify all bid and product specifications relating to the
15 purchase of covered electronic devices so that the specifications do
16 not discriminate against, but encourage the maximum purchase of
17 covered electronic devices that meet the environmental performance
18 standards established pursuant to this act relating to the phase-out
19 or elimination of hazardous materials.

20

21 15. (New section) The department shall adopt, pursuant to the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.), rules and regulations as are necessary to effectuate the
24 purposes of this act.

25

26 16. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to
27 read as follows:

28 3. a. Each county shall prepare and adopt a district recycling
29 plan to implement the State Recycling Plan goals. Each district
30 recycling plan shall be adopted as an amendment to the district
31 solid waste management plan required pursuant to the provisions of
32 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
33 seq.) and subject to the approval of the department.

34 b. Each district recycling plan required pursuant to this section
35 shall include, but need not be limited to:

36 (1) Designation of a district recycling coordinator;

37 (2) Designation of the recyclable materials to be source
38 separated in each municipality which shall include, in addition to
39 leaves, at least three other recyclable materials separated from the
40 municipal solid waste stream;

41 (3) Designation of the strategy for the collection, marketing and
42 disposition of designated source separated recyclable materials in
43 each municipality;

44 (4) Designation of recovery targets in each municipality to
45 achieve the maximum feasible recovery of recyclable materials
46 from the municipal solid waste stream which shall include, at a
47 minimum, the following schedule:

1 (a) The recycling of at least 15% of the total municipal solid
2 waste stream by December 31, 1989;

3 (b) The recycling of at least 25% of the total municipal solid
4 waste stream by December 31, 1990; and

5 (c) The recycling of at least 50% of the total municipal solid
6 waste stream, including yard waste and vegetative waste, by
7 December 31, 1995; and

8 (5) Designation of countywide recovery targets to achieve the
9 maximum feasible recovery of recyclable materials from the total
10 solid waste stream which shall include, at a minimum, the recycling
11 of at least 60% of the total solid waste stream by December 31,
12 1995.

13 For the purposes of this subsection, "total municipal solid waste
14 stream" means the sum of the municipal solid waste stream
15 disposed of as solid waste, as measured in tons, plus the total
16 number of tons of recyclable materials recycled; and "total solid
17 waste stream" means the aggregate amount of solid waste generated
18 within the boundaries of any county from all sources of generation,
19 including the municipal solid waste stream.

20 c. Each district recycling plan, in designating a strategy for the
21 collection, marketing and disposition of designated recyclable
22 materials in each municipality, shall authorize municipalities that
23 adopt a recycling ordinance pursuant to subsection b. of section 6 of
24 P.L.1987, c.102 (C.13:1E-99.16) to limit the collection of
25 designated recyclable materials to specified operating hours in order
26 to preserve the peace and quiet in neighborhoods during the hours
27 when most residents are asleep.

28 Each district recycling plan may be modified after adoption
29 pursuant to a procedure set forth in the adopted plan as approved by
30 the department.

31 d. A district recycling plan may be modified to require that
32 each municipality within the county revise the ordinance adopted
33 pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-
34 99.16) to provide for the source separation and collection of used
35 dry cell batteries as a designated recyclable material.

36 e. Within 12 months of the effective date of P.L. _____, c.
37 (C. _____)(pending before the Legislature as this bill), each district
38 recycling plan shall be modified to include the designation of
39 collection sites for the delivery of used televisions, electronic waste
40 by consumers and covered electronic device end users, and may be
41 modified to include a television recycling and management
42 program.

43 For the purposes of this subsection, "electronic waste" and
44 "covered electronic device," respectively, mean the same as those
45 terms are defined in section 3 of P.L. _____, c. _____ (C. _____)(pending
46 before the Legislature as this bill).

47 (cf: P.L.2001, c.92, s.7)

1 17. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
2 read as follows:

3 6. Each municipality in this State shall designate one or more
4 persons as the municipal recycling coordinator. Each municipality
5 shall establish and implement a municipal recycling program in
6 accordance with the following requirements:

7 a. (1) Each municipality shall provide for a collection system
8 for the recycling of the recyclable materials designated in the
9 district recycling plan as may be necessary to achieve the
10 designated recovery targets set forth in the plan in those instances
11 where a recycling collection system is not otherwise provided for
12 by the generator or by the county, interlocal service agreement or
13 joint service program, or other private or public recycling program
14 operator.

15 (2) Each municipality shall provide for collection sites for the
16 delivery of used televisions by consumers, and the delivery of
17 electronic waste by consumers and covered electronic device end
18 users if designated in the district recycling plan.

19 For the purposes of this paragraph, "electronic waste" and
20 "covered electronic device," respectively, mean the same as those
21 terms are defined in section 3 of P.L. , c. (C.)(pending
22 before the Legislature as this bill).

23 b. The governing body of each municipality shall adopt an
24 ordinance which requires persons generating municipal solid waste
25 within its municipal boundaries to source separate from the
26 municipal solid waste stream, in addition to leaves, the specified
27 recyclable materials for which markets have been secured and,
28 unless recycling is otherwise provided for by the generator, place
29 these specified recyclable materials for collection in the manner
30 provided by the ordinance.

31 c. The governing body of each municipality shall, at least once
32 every 36 months, conduct a review and make necessary revisions to
33 the master plan and development regulations adopted pursuant to
34 P.L.1975, c.291 (C.40:55D-1 et seq.), which revisions shall reflect
35 changes in federal, State, county and municipal laws, policies and
36 objectives concerning the collection, disposition and recycling of
37 designated recyclable materials.

38 The revised master plan shall include provisions for the
39 collection, disposition and recycling of recyclable materials
40 designated in the municipal recycling ordinance adopted pursuant to
41 subsection b. of this section, and for the collection, disposition and
42 recycling of designated recyclable materials within any
43 development proposal for the construction of 50 or more units of
44 single-family residential housing or 25 or more units of multi-
45 family residential housing and any commercial or industrial
46 development proposal for the utilization of 1,000 square feet or
47 more of land.

1 d. The governing body of a municipality may exempt persons
2 occupying commercial and institutional premises within its
3 municipal boundaries from the source separation requirements of
4 the ordinance adopted pursuant to subsection b. of this section if
5 those persons have otherwise provided for the recycling of the
6 recyclable materials designated in the district recycling plan from
7 solid waste generated at those premises. To be eligible for an
8 exemption pursuant to this subsection, a commercial or institutional
9 solid waste generator annually shall provide written documentation
10 to the municipality of the total number of tons recycled.

11 e. The governing body of each municipality shall, on or before
12 July 1 of each year, submit a recycling tonnage report to the New
13 Jersey Office of Recycling in accordance with rules and regulations
14 adopted by the department therefor.

15 f. The governing body of each municipality shall, at least once
16 every six months, notify all persons occupying residential,
17 commercial, and institutional premises within its municipal
18 boundaries of local recycling opportunities, and the source
19 separation requirements of the ordinance. In order to fulfill the
20 notification requirements of this subsection, the governing body of
21 a municipality may, in its discretion, place an advertisement in a
22 newspaper circulating in the municipality, post a notice in public
23 places where public notices are customarily posted, include a notice
24 with other official notifications periodically mailed to residential
25 taxpayers, or any combination thereof, as the municipality deems
26 necessary and appropriate.

27 The governing body of a municipality that adopts a recycling
28 ordinance pursuant to subsection b. of this section may limit the
29 collection of designated recyclable materials to specified operating
30 hours in order to preserve the peace and quiet in neighborhoods
31 during the hours when most residents are asleep.

32 (cf: P.L.2001, c.92, s.8)

33

34 18. This act shall take effect immediately.

35

36

37

STATEMENT

38

39 This bill would require that manufacturers of certain electronic
40 devices provide for the collection and recycling of discarded
41 electronic waste. The bill would also provide for the collection and
42 recycling of used televisions by imposing an advanced recovery fee
43 on the sale of new television sets and authorizing that district
44 recycling plans provide a plan for the collection, recycling and
45 disposal of discarded televisions. Grants would be provided to fund
46 the county or municipal television recycling programs. In those
47 instances where a county or municipal television recycling and
48 management program has not been adopted, the Department of

1 Environmental Protection (DEP) shall establish a used television
2 recycling and management program in which the department shall
3 identify and enter into agreements with authorized used television
4 recyclers who shall be authorized to accept used televisions from
5 county and municipal collection sites.

6 A "covered electronic device" means a computer central
7 processing unit, a cathode ray tube, a cathode ray tube device, a flat
8 panel display or similar video display device with a screen that is
9 greater than four inches measured diagonally and that contains one
10 or more circuit boards, but would not include television sets.

11 The bill excludes from the definition of "covered electronic
12 device" the following: an automobile or service replacement parts
13 built by or for an automobile manufacturer for use in an automobile,
14 a household appliance, a large piece of commercial or industrial
15 equipment, such as commercial medical equipment, that contains a
16 cathode ray tube, a cathode ray tube device, a flat panel display or
17 similar video display device that is contained within, and is not
18 separate from, the larger piece of equipment, or other medical
19 devices as defined under the "Federal Food, Drug, and Cosmetic
20 Act," 21 U.S.C s.301 et seq.

21 The bill imposes an advance recovery fee of \$10 upon the sale of
22 each new television sold at retail. The advance recovery fee would
23 be added to the total cost to the purchaser at retail after all
24 applicable sales taxes on the television have been computed and
25 must be separately stated on the invoice or bill of sale.

26 The bill establishes the Used Television Management Fund as a
27 nonlapsing, revolving fund in the Department of the Treasury. The
28 Fund will be administered by the DEP and credited with all advance
29 recovery fees collected by the Director of the Division of Taxation
30 in the Department of the Treasury. Moneys in the fund must be
31 appropriated annually solely for the following purposes:

32 (1) To provide grants to counties or municipalities to fund a
33 used television recycling and management program, including the
34 administrative expenses thereof;

35 (2) For the DEP's actual expenses in administering the grant
36 program;

37 (3) To provide funding for a State used television recycling and
38 management program, including the administrative expenses
39 thereof; and

40 (4) To make recycling payments to authorized used television
41 recyclers.

42 Within six months of the bill's effective, the DEP must establish
43 criteria for county or municipal television recycling and
44 management programs. The DEP must also develop a grant
45 program to pay for the county and municipal costs of the programs.
46 The DEP may require the county or municipality, as appropriate, to
47 maintain records of the volume of used televisions collected and
48 recycled and to report to the DEP the name and address of each

1 authorized recycler and the number of used televisions delivered to
2 each authorized recycler. The DEP will make grant awards to the
3 county or municipality, as the case may be, based upon the costs
4 incurred by each county and municipality for its television
5 recycling and management program.

6 The bill requires that, within 12 months of the bill's effective
7 date, each district recycling plan must be modified to include the
8 designation of collection sites for the delivery of used televisions,
9 electronic waste by consumers and covered electronic device end
10 users, and may be modified to include a television recycling and
11 management program. Further, each municipality must provide for
12 collection sites for the delivery of used televisions by consumers,
13 and the delivery of electronic waste by consumers and covered
14 electronic device end users if designated in the district recycling
15 plan. In those instances where a county or municipal television
16 recycling and management program has not been adopted, the
17 department shall establish a used television recycling and
18 management program. The department shall identify and enter into
19 agreements with authorized used televisions recyclers who shall be
20 authorized to accept used televisions from county and municipal
21 collection sites.

22 The bill requires every manufacturer of covered electronic
23 devices sold, offered for sale, or offered for promotional purposes
24 in this State to prepare and submit an electronic waste management
25 plan, in writing, to the DEP within 12 months of the bill's effective
26 date. The plan is designed to meet the manufacturer's financial
27 responsibilities under the bill, and sets forth a strategy for financing
28 the environmentally-sound management of discarded and obsolete
29 covered electronic devices, including orphan electronic waste and
30 historic electronic waste.

31 "Historic electronic waste" means a covered electronic device
32 which became electronic waste prior to the bill's effective date, the
33 manufacturer of which is a business concern still in business as of
34 the effective date of the bill.

35 "Manufacturer" means any person that, either as of the bill's
36 effective date or thereafter, and regardless of the selling technique
37 used, including, but not limited to, transactions conducted through
38 sales outlets, catalogs or the Internet: (1) manufactures and sells
39 covered electronic devices under its own brand or sells covered
40 electronic devices produced by other suppliers under its own brand
41 and label; (2) manufactures and sells covered electronic devices
42 without affixing a brand; (3) resells covered electronic devices
43 produced by other suppliers under its own brand and label; or (4)
44 imports or exports covered electronic devices into this State.

45 "Orphan electronic waste" means a covered electronic device, the
46 manufacturer of which cannot be identified, or a covered electronic
47 device manufactured by or bearing the brand name of a business
48 concern which is no longer in business as of the bill's effective date.

1 Every manufacturer shall be responsible for financing the
2 environmentally-sound management of the electronic waste from its
3 own products, as well as its proportionate share of orphan electronic
4 waste and historic electronic waste in this State, as determined by
5 the DEP, but may execute this obligation through individual
6 financing schemes or in cooperation with other manufacturers.

7 Consumers and covered electronic device end users may be
8 responsible for delivering electronic waste into the collection
9 system, including collection sites designated in district recycling
10 plans as required under the bill, as may be provided for in the
11 electronic waste management plan. A manufacturer may include
12 direct collection, reverse delivery systems, or reverse logistics
13 systems in the electronic waste management plan.

14 Consumers shall not be charged to return electronic waste.

15 Any manufacturer that fails to submit an electronic waste
16 management plan within the time provided for in the bill is subject
17 to a fine of not more than the equivalent of \$25 per individual
18 covered electronic device sold by that manufacturer during the
19 previous calendar year.

20 Each electronic waste management plan submitted by a
21 manufacturer shall provide, at a minimum, that the manufacturer
22 will participate in a national collection program for used computer
23 monitors or television sets that will be fully implemented in this
24 State and that the collection program will be consistent with the
25 requirements and performance standards established by the DEP.

26 The DEP shall not approve an electronic waste management plan
27 unless the department finds, in writing, that the plan, or the
28 collection program, will provide:

29 (1) An effective system for financing the collection, treatment,
30 recovery, re-use, and disposition of all covered electronic devices
31 sold, offered for sale, or offered for promotional purposes in this
32 State by the manufacturer;

33 (2) A plan for financing that manufacturer's share of orphan
34 electronic waste and historic electronic waste in this State, as
35 determined by the DEP, as of the effective date of the
36 manufacturer's financial obligation;

37 (3) A plan for complying with the labeling, consumer
38 notification, and public education requirements of the bill that are
39 necessary to ensure the protection of covered electronic device
40 users, processors and recyclers, and ensure participation in the
41 manufacturer's plan;

42 (4) Documentation of the willingness of all necessary parties
43 involved to implement the proposed plan, and assurances that the
44 plan will comply with all applicable State and local environmental
45 laws and regulations;

46 (5) A description of the performance measures to be used and
47 reported by the manufacturer to the DEP to demonstrate that the

1 collection system is meeting the measures of the collection
2 program's effectiveness required by the DEP; and

3 (6) A description of the alternative or additional actions that will
4 be implemented by the manufacturer to improve the collection,
5 recovery and recycling systems in the event that the collection
6 program targets are not met.

7 The DEP may establish and charge reasonable fees for the
8 review of proposed electronic waste management plans and for
9 other costs incurred by the DEP for implementation of the bill.

10 Upon a determination by the DEP that a manufacturer is not
11 meeting the performance standards relating to the reduction or
12 elimination of hazardous materials and to the collection and
13 recycling of electronic waste, the DEP may order the manufacturer
14 to take actions the department deems necessary to achieve the
15 performance standards.

16 Any manufacturer that fails to meet any of these requirements
17 within the time frame required shall be prohibited from selling
18 covered electronic devices in this State. A manufacturer not in
19 compliance with the requirements of the bill is required to provide
20 the necessary support to retailers to ensure the manufacturer's
21 covered electronic devices are not offered for sale in this State.

22 A retailer may not offer for sale in this State a covered electronic
23 device of a manufacturer that is not in compliance with the
24 provisions of the bill.

25 Within 12 months of the bill's effective date, every manufacturer
26 must phase-out the use of lead, mercury, cadmium, hexavalent
27 chromium, brominated flame retardants, and polyvinyl chloride and
28 only offer for sale covered electronic devices that contain less
29 harmful alternatives.

30 If a manufacturer provides sufficient demonstration to the DEP
31 that it is technically impossible to use an alternative substance, the
32 DEP may issue a limited term exemption. An exemption shall be
33 rescinded by the DEP when it determines, in writing, that a less
34 harmful alternative for the substance can be used. If the exemption
35 is granted by the DEP, the DEP may assign a limited amount of
36 time before the exemption expires to ensure that manufacturers are
37 investing in research and development to identify an appropriate
38 less harmful alternative.

39 Within 12 months of the bill's effective date, all covered
40 electronic devices sold, offered for sale, or offered for promotional
41 purposes in this State shall be clearly marked or labeled, or
42 informational materials shall be provided with the new product,
43 which provide consumers and end users with information relating to
44 the following:

45 (1) the visible, permanent label affixed to the covered electronic
46 device clearly identifies the manufacturer;

1 (2) the hazardous materials contained in the covered electronic
2 devices and the parts or sub-units which contain the particular
3 substances;

4 (3) the requirements not to dispose of covered electronic devices
5 in sanitary landfill facilities, resource recovery facilities or any
6 other means not approved as part of the manufacturer's electronic
7 waste management plan; and

8 (4) a toll-free phone number and Internet web site address where
9 consumers can obtain information and instructions about the safe
10 collection of the covered electronic device through the
11 manufacturer's electronic waste management plan.

12 As part of an approved electronic waste management plan, a
13 manufacturer shall implement a consumer education plan.

14 The bill prohibits the knowing disposal of used televisions and
15 electronic waste, including the constituent sub-units or materials
16 comprising the waste, as solid waste. Any person convicted of a
17 violation of this prohibition shall be subject to a penalty of not less
18 than \$500 nor more than \$1,000 for each offense, to be collected in
19 a civil action by a summary proceeding under the "Penalty
20 Enforcement Law of 1999." If the violation is of a continuing
21 nature, each day during which it continues constitutes an additional,
22 separate, and distinct offense.

23 The bill prohibits a solid waste collector from knowingly
24 collecting used televisions and electronic waste, including the
25 constituent sub-units or materials comprising the waste, placed for
26 collection and disposal as solid waste. A solid waste collector may
27 refuse to collect the contents of a solid waste container containing a
28 visible quantity of electronic waste or used televisions. Similarly,
29 no sanitary landfill facility or resource recovery facility shall
30 knowingly accept for disposal any truckload or roll-off container of
31 solid waste containing a visible quantity of used televisions or
32 electronic waste, including the constituent sub-units or materials
33 comprising the waste, at any time. The owner or operator of a
34 sanitary landfill facility or resource recovery facility may refuse to
35 accept for disposal any truckload or roll-off container of solid waste
36 containing a visible quantity of used televisions or electronic waste.

37 Any solid waste collector or solid waste facility owner-operator
38 who violates these provisions commits a disorderly persons offense.
39 Anyone convicted of a violation of these provisions is subject to a
40 fine of not less than \$2,500 for a first offense, not more than \$5,000
41 for a second offense and not more than \$10,000 for a third and
42 every subsequent offense. Each day during which the violation
43 continues constitutes an additional, separate and distinct offense.