

# ASSEMBLY, No. 3572

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 23, 2006

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblyman PETER J. BARNES, JR.**

**District 18 (Middlesex)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Assemblyman ROBERT M. GORDON**

**District 38 (Bergen)**

**Co-Sponsored by:**

**Assemblymen Diegnan, Stack, Vas, Assemblywoman Quigley,  
Assemblymen Payne, Wisniewski, Giblin, Assemblywoman Greenstein,  
Assemblyman Fisher, Assemblywomen Oliver, Lampitt, Assemblymen  
Greenwald and Epps**

**SYNOPSIS**

“Electronic Waste Recycling Act.”

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 1/23/2007)

1 AN ACT concerning electronic waste recycling, and supplementing  
2 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. This act shall be known and may be cited as the "Electronic  
8 Waste Recycling Act."

9

10 2. As used in this act:

11 "Cathode ray tube" means a vacuum tube or picture tube used to  
12 convert an electronic signal into a visual image;

13 "Computer" means an electronic, magnetic, optical,  
14 electrochemical, or other high-speed data processing device  
15 performing logical, arithmetic, or storage function, and may include  
16 both a computer central processing unit and a monitor, but the term  
17 shall not include an automated typewriter or typesetter, a portable  
18 handheld calculator, a portable digital assistant, or other similar  
19 device;

20 "Consumer" means an individual who purchases a covered  
21 electronic device in a transaction that is a retail sale;

22 "Covered electronic device" means desktop or personal  
23 computers, computer monitors, portable computers, and televisions  
24 sold to consumers. A "covered electronic device" shall not include  
25 any of the following: (1) an electronic device that is a part of a  
26 motor vehicle or any component part of a motor vehicle assembled  
27 by, or for, a vehicle manufacturer or franchised dealer, including  
28 replacement parts for use in a motor vehicle; (2) an electronic  
29 device that is functionally or physically a part of a larger piece of  
30 equipment designed and intended for use in an industrial,  
31 commercial, or medical setting, including diagnostic, monitoring, or  
32 control equipment; (3) an electronic device that is contained within  
33 a clothes washer, clothes dryer, refrigerator, refrigerator and  
34 freezer, microwave oven, conventional oven or range, dishwasher,  
35 room air conditioner, dehumidifier, or air purifier; or (4) a  
36 telephone of any type unless it contains a video display area greater  
37 than four inches measured diagonally;

38 "Department" means the Department of Environmental  
39 Protection;

40 "Manufacturer" means any person that, irrespective of the selling  
41 technique used, including by means of remote sale: (1)  
42 manufactures covered electronic devices under its own brand for  
43 sale in this State; (2) manufactures covered electronic devices for  
44 sale in this State without affixing a brand, (3) resells in this State  
45 covered electronic devices produced by other suppliers under its  
46 own brand or label; (4) imports or exports covered electronic  
47 devices into the United States for sale in this State; provided,  
48 however, that if a company from whom an importer purchases the

1 merchandise has a presence or assets within the United States, that  
2 company shall be deemed to be the manufacturer; or (5)  
3 manufactures covered electronic devices, supplies them to any  
4 person or persons within a distribution network that includes  
5 wholesalers or retailers in this State, and benefits from the sale in  
6 this State of those covered electronic devices through that  
7 distribution network;

8 "Manufacturer's brands" means a manufacturer's name, brand  
9 name, or brand label, and all manufacturer's names, brand names,  
10 and brand labels for which the manufacturer has legal  
11 responsibility, including those names, brand names, and brand  
12 labels of companies that have been acquired by the manufacturer;

13 "Monitor" means a separate video display component of a  
14 computer, whether sold separately or together with a computer  
15 central processing unit and computer box, and includes a cathode  
16 ray tube, liquid crystal display, gas plasma, digital light processing,  
17 or other image projection technology, greater than four inches  
18 measured diagonally, and its case, interior wires and circuitry, cable  
19 to the central processing unit, and power cord;

20 "Obligation" means the quantity of covered electronic devices,  
21 by weight, identified for an individual manufacturer, as defined by  
22 the department pursuant to section 8 of this act;

23 "Person" means an individual, trust firm, joint stock company,  
24 business concern, and corporation, including, but not limited to, a  
25 government department, partnership, limited liability company, or  
26 association;

27 "Portable computer" means a computer and video display greater  
28 than four inches in size that can be carried as one unit by an  
29 individual, including a laptop computer;

30 "Purchase" means the taking, by sale, of title in exchange for  
31 consideration;

32 "Recycling" means any process by which materials which would  
33 otherwise become solid waste are collected, separated or processed  
34 and returned to the economic mainstream in the form of raw  
35 materials or products. "Recycling" shall not include energy  
36 recovery or energy generation by means of incinerating electronic  
37 waste whether apart or in combination with other wastes;

38 "Registrant" means a manufacturer of covered electronic devices  
39 that is in full compliance with the requirements of this act;

40 "Retail sales" includes sales of products through sales outlets, via  
41 the Internet, mail order, or other means, whether or not the seller  
42 has a physical presence in this State;

43 "Retailer" means a person who owns or operates a business that  
44 sells new covered electronic devices in this State by any means to a  
45 consumer;

46 "Sell" or "sale" means any transfer for consideration of title,  
47 including, but not limited to, transactions conducted through sales

1 outlets, catalogs, or the Internet, or any other, similar electronic  
2 means, and excluding leases;

3 "State recycling rate" means the ratio of the weight of total  
4 overall returns of covered electronic devices in the State to the  
5 weight of total overall sales of covered electronic devices in the  
6 State during the previous calendar year;

7 "Television" means a stand-alone display system containing a  
8 cathode ray tube or any other type of display primarily intended to  
9 receive video programming via broadcast, having a viewable area  
10 greater than four inches measured diagonally, able to adhere to  
11 standard consumer video formats and having the capability of  
12 selecting different broadcast channels and support sound capability;

13 "Video display" means an output surface having a viewable area  
14 greater than four inches when measured diagonally that displays  
15 moving graphical images or a visual representation of image  
16 sequences or pictures, showing a number of quickly changing  
17 images on a screen in fast succession to create the illusion of  
18 motion, including, if applicable, a device that is an integral part of  
19 the display and cannot be easily removed from the display by the  
20 consumer that produces the moving image on the screen. Displays  
21 typically use a cathode ray tube, liquid crystal display, gas plasma,  
22 digital light processing, or other image projection technology.

23

24 3. a. Any manufacturer that is not in compliance with all  
25 financial and other requirements of this act shall be prohibited from  
26 selling or offering a covered electronic device for sale in this State.

27 b. It shall be unlawful for any person to sell or offer for sale in  
28 this State a new covered electronic device from a manufacturer that  
29 is not in full compliance with the requirements of this act. The  
30 department shall maintain a list of all manufacturers in compliance  
31 with the requirements of this act and shall post the list on the  
32 department's Internet website. Sellers of products in or into the  
33 State shall consult the list prior to selling covered electronic devices  
34 in this State. A seller shall be considered to have complied with  
35 this responsibility if, on the date that the product was ordered from  
36 the manufacturer or its agent, the manufacturer was listed as being  
37 in compliance on the aforementioned website.

38

39 4. On and after the effective date of this act, a manufacturer or  
40 retailer may not sell or offer for sale a covered electronic product in  
41 this State unless it is labeled with the manufacturer's brand, and the  
42 label is permanently affixed and readily visible.

43

44 5. a. Every manufacturer shall report to the department by  
45 January 30 of each year the total weight of covered electronic  
46 devices sold in this State the previous calendar year. In lieu of  
47 providing the total weight of covered electronic devices sold in this  
48 State the previous calendar year, a manufacturer may request that

1 the department calculate the total weight of covered electronic  
2 devices sold in this State by using prorated national sales data based  
3 on State population.

4 b. Every manufacturer shall register with the department by  
5 January 30 of each year and pay a registration fee of \$5,000.

6  
7 6. a. Every manufacturer shall submit an additional fee based  
8 on sales in this State to the department. The fee shall be calculated  
9 using the following formula: the State recycling rate multiplied by  
10 the weight of sales of the manufacturer's covered electronic devices  
11 sold in this State during the previous calendar year, multiplied by  
12 no more than \$0.50 per pound.

13 b. In lieu of payment of the fee set forth in subsection a. of this  
14 section, a manufacturer or a group of manufacturers may submit a  
15 plan to collect, transport, and recycle covered electronic devices.

16 c. An individual manufacturer submitting a plan in lieu of  
17 payment of the fee set forth in subsection a. of this section shall  
18 collect, transport, and recycle a quantity of covered electronic  
19 devices equal to the weight of sales of the manufacturer's covered  
20 electronic devices in this State during the previous calendar year  
21 multiplied by the State recycling rate.

22 d. A group of manufacturers jointly submitting a plan in lieu of  
23 payment of the fee set forth in subsection a. of this section shall  
24 collect, transport, and recycle the sum of the obligations of each  
25 participating manufacturer.

26 e. Every plan shall be filed with a manufacturer's annual  
27 registration, and shall include at a minimum:

28 (1) Methods that will be used to collect the covered electronic  
29 devices including the name and locations of all collection and  
30 consolidation points;

31 (2) An estimate of the amount of covered electronic devices that  
32 will be collected annually;

33 (3) The processes and methods that will be used to recycle  
34 recovered covered electronic devices including a description of the  
35 disassembly, physical recovery operation, including crushing,  
36 shredding, grinding, glass-to-glass recycling, and for other  
37 operations that will be used, including the name and location of all  
38 facilities to be utilized;

39 (4) Documentation of audits of each processor used in the plan  
40 and compliance with processing standards established under section  
41 11 of this act;

42 (5) A description of the accounting and reporting systems that  
43 will be employed to track progress toward fulfilling the plan's  
44 obligations;

45 (6) Means that will be utilized to publicize the collection  
46 opportunities;

- 1 (7) The intention of the registrant to fulfill its obligations  
2 through operation of its own program, either individually or in  
3 partnership with other manufacturers; and
- 4 (8) The total weight of covered electronic devices collected,  
5 transported and recycled the previous year.
- 6 f. Before the fee set forth in subsection a. of this section may be  
7 waived, the plan shall be reviewed and approved by the department.  
8 Upon approval of the plan by the department, the payment of the  
9 annual fees based upon sales by the manufacturer shall be waived.  
10 The department may reject the plan, in whole or in part, and may  
11 impose additional requirements as a condition of approval.
- 12 g. If a manufacturer fails to comply with all the conditions and  
13 terms of an approved plan, the manufacturer shall be required to  
14 submit the following:
- 15 (1) A payment to the department to cover the cost of collecting,  
16 transporting, and recycling the unmet portion of its obligation. The  
17 payment shall be equal to the following formula: the quantity of the  
18 outstanding portion, in pounds, multiplied by no more than \$0.50,  
19 and;
- 20 (2) A penalty in the form of a payment equal to the cost of  
21 collecting, transporting and recycling 10% of the manufacturer's  
22 total obligation.
- 23 h. Manufacturers that collect, transport, and recycle covered  
24 electronic devices in excess of their obligation may sell credits to  
25 another registrant or apply that excess to the following year's  
26 recycling obligation.
- 27
- 28 7. a. A retailer shall clearly post and provide information  
29 provided by the department that describes where and how to recycle  
30 the covered electronic device and opportunities and locations for  
31 the collection or return of the device, through the use of a toll-free  
32 telephone number and website, information included in the  
33 packaging, or information provided accompanying the sale of the  
34 covered electronic device. This information shall be provided in  
35 clear written form in English and any other languages deemed to be  
36 primary languages by the State Department of Education.
- 37 b. A retailer shall only sell products from registrants. Retailers  
38 shall consult the list posted on the department's Internet website  
39 pursuant to section 3 of this act prior to selling covered electronic  
40 devices in this State. A retailer shall be considered to have  
41 complied with this responsibility if on the date that the product was  
42 ordered from the manufacturer or its agent, the manufacturer was  
43 listed as being in compliance on the aforementioned website.
- 44
- 45 8. a. (1) By February 15 of each year, the department shall  
46 establish the State recycling rate, by calculating the ratio of the  
47 weight of total overall returns of covered electronic devices in the

1 State to the weight of total overall sales of covered electronic  
2 devices in the State during the previous calendar year.

3 (2) By March 1 of each year, the department shall provide each  
4 registrant with its responsibility for fees from sales or for  
5 collection, recycling, and transportation in pounds for that year.

6 b. The department shall receive fees as provided in section 6 of  
7 this act from manufacturers for the sale of covered electronic  
8 devices.

9 c. (1) The department shall organize, administer, and ensure  
10 that at least one electronics collection opportunity is available at  
11 least 5 days a week in each county throughout the State and in such  
12 a manner as to be convenient, to the maximum extent practicable  
13 and feasible, to all consumers in the county.

14 (2) The department shall ensure that collection sites do not place  
15 limits on the number of covered electronic devices permitted for  
16 drop-off by consumers.

17 (3) The department shall encourage the use of existing  
18 collection and consolidation infrastructures for handling covered  
19 electronic devices to the extent that this infrastructure is accessible  
20 on a regular and ongoing basis to at least 85% of the population of  
21 the State, is cost effective, and meets the environmentally sound  
22 management requirements of section 11 of this act.

23 d. (1) The department shall maintain a list of registrants and  
24 post the list on the department's Internet website that is updated at  
25 least once a month.

26 (2) The department shall organize and coordinate public  
27 education and outreach.

28 e. The department shall use the revenues received from  
29 registrants for the sole purpose of fulfilling its responsibilities under  
30 this act. In the event that expenses from administration, education,  
31 collection, transportation, and recycling activities exceed receipts,  
32 the department may borrow up to 10% of the projected annual State  
33 revenues from fees submitted under this act from outside sources.  
34 Borrowed funds shall be repaid within two years.

35 f. The department shall prepare a plan every three years that: (1)  
36 establishes per-capita collection and recycling goals; and (2)  
37 identifies any necessary State actions to expand collection  
38 opportunities to achieve the per-capita collection and recycling  
39 goals. The plan shall be posted on the department's Internet  
40 website and submitted to the Legislature.

41 g. The department shall prepare an annual report, which shall be  
42 posted on the department's Internet website and submitted to the  
43 Legislature.

44 The annual report shall include the following:

45 (1) A list of all parties that the department has designated as  
46 approved to receive payments for collection, transportation, or  
47 recycling, the amount of payments it has made to those parties, and  
48 the purpose of those payments;

- 1       (2) The total weight of covered electronic devices collected in  
2 the State the previous calendar year;
- 3       (3) The total weight of covered electronic devices sold in the  
4 State the previous calendar year;
- 5       (4) Progress toward achieving the overall annual total recovery  
6 and recycling goals described in the plan prepared pursuant to  
7 subsection f. of this section;
- 8       (5) A complete listing of all collection sites operating in the  
9 State in the prior calendar year, the parties that operated them, and  
10 the amount of material by weight collected at each site;
- 11       (6) An evaluation of the effectiveness of the education and  
12 outreach program;
- 13       (7) An evaluation of the existing collection and processing  
14 infrastructure.
- 15       h. The program implemented to effectuate the provisions of this  
16 act and its associated regulations shall be fully audited by an  
17 independent, certified public accountant at the end of each calendar  
18 year and the audit report shall be submitted to the Legislature.  
19
- 20       9. a. The department shall maintain a website and toll-free  
21 number complete with up-to-date listings of where consumers can  
22 bring covered electronics products for recycling under the  
23 provisions of this act.
- 24       b. The department shall not be held financially liable or  
25 responsible for any violation of Federal, state, or local law by any  
26 person to whom the department makes payment pursuant to section  
27 10 of this act.
- 28       c. No more frequently than annually and no less frequently than  
29 biennially, the department shall review, at a public hearing, the  
30 covered electronic device recycling and registration fees.  
31 Recommended changes to the covered electronic device recycling  
32 rate and registration fees shall be included in the annual report  
33 required pursuant to subsection g. of section 8 of this act.
- 34       d. No fees or costs may be charged to consumers for the  
35 collection, transportation, or recycling of covered electronic  
36 products.  
37
- 38       10. The department shall engage in competitive bidding for the  
39 collection, transportation, and recycling of covered electronic  
40 devices in accordance with the procedures concerning the awarding  
41 of public contracts provided in P.L.1954, c.48 (C.52:34-6 et seq.).
- 42       a. The department shall make covered electronic device  
43 payments for the collection, transportation, and recycling of  
44 covered electronic devices to an authorized or approved person  
45 upon receipt of a completed and verified invoice submitted to the  
46 department in the form and manner determined by the department.
- 47       b. In order to receive payment, proof will be required that:

1 (1) the covered electronic device was collected from a consumer  
2 who is a resident of the State or is otherwise located in the State, or  
3 who provides evidence that the device was purchased in this State  
4 after the effective date of this act;

5 (2) the collection, transportation, and recycling of the covered  
6 electronic devices was conducted in accordance with all local, state,  
7 and Federal laws, including the requirements established under this  
8 act, and any rules or regulations adopted pursuant thereto; and

9 (3) no fees or costs were charged to the consumer.

10  
11 11. a. Covered electronic devices collected through any  
12 program in this State, whether by manufacturers, retailers, for-profit  
13 or not-for profit corporations, units of government, or organized by  
14 the department, shall be recycled in a manner that is in compliance  
15 with all applicable Federal, state, and local laws, regulations, and  
16 ordinances, and shall not be exported for disposal in a manner that  
17 poses a significant risk to the public health or the environment.

18 b. The department shall establish performance requirements in  
19 order for collectors, transporters, and recyclers to be eligible to  
20 receive funds from the department. Every collector, transporter and  
21 recycler shall, at a minimum, demonstrate compliance with the  
22 United States Environmental Protection Department's Plug-In to  
23 eCycling Guidelines for Materials Management as issued and  
24 available on the EPA's Internet website in addition to any other  
25 requirements mandated by state or Federal law. The department  
26 shall maintain an Internet website that shall include a list of  
27 collectors, transporters, and recyclers that it has determined have  
28 met these performance standards.

29  
30 12. On and after January 1, 2009, no person shall knowingly  
31 dispose of a used covered electronic device, or any of the  
32 components or subassemblies thereof, as solid waste.

33  
34 13. a. The State, including the Attorney General and the  
35 department, shall be authorized to initiate independent action to  
36 enforce any provision of this law, including failure by the  
37 manufacturer to remit the fee to the department. Any funds  
38 awarded by the court shall be used first to offset enforcement  
39 expenses. Money in excess of the enforcement expenses shall be  
40 deposited with the department.

41 b. An offense shall be considered:

42 (1) the sale of a new covered electronic device by any person  
43 that is not in full compliance with the provisions of this act;

44 (2) application for compensation for the collection,  
45 transportation and recycling of covered electronic products not  
46 collected within the State, or region as provided in section 16 of this  
47 act;

1 (3) use of a qualified collection program to recycle covered  
2 electronic products not discarded within the State, or region as  
3 provided in section 15 of this act;

4 (4) the knowing failure to report or accurately report any data  
5 required to be reported to the department pursuant to this act;

6 (5) non-payment of fees.  
7

8 14. a. The department shall adopt, pursuant to the  
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
10 seq.), rules and regulations as are necessary to effectuate the  
11 purposes of this act.

12 b. The department may, in accordance with a fee schedule  
13 adopted as a rule or regulation pursuant to the provisions of the  
14 "Administrative Procedure Act," establish and charge reasonable  
15 fees for any of the services to be performed in connection with this  
16 act, which shall cover the full costs incurred by the department for  
17 the review of plans and for other costs incurred by the department  
18 for implementation of this act.  
19

20 15. The department is authorized to participate in the  
21 establishment and implementation of a regional, multi-state  
22 organization or compact to assist in carrying out the requirements  
23 of this act.  
24

25 16. This act is intended to govern all aspects of the collection  
26 and recycling of covered electronic devices as those terms are  
27 defined herein. Upon the implementation of an acceptable  
28 national program to collect or recycle covered electronic devices,  
29 the provisions of this act shall expire within the timeframe  
30 determined by Federal law.  
31

32 17. a. It is the intent of the Legislature that, except as otherwise  
33 specifically provided in this act, in the event of any conflict or  
34 inconsistency in the provisions of this act and any other acts  
35 pertaining to matters herein established or provided for or in any  
36 rules and regulations adopted under this act and under any other  
37 acts, to the extent of such conflict or inconsistency, the provisions  
38 of this act and the rules and regulations adopted hereunder shall be  
39 enforced and the provisions of such other acts and rules and  
40 regulations adopted pursuant thereto shall be of no effect.

41 b. The provisions of this act shall be severable, and if any  
42 section, part, phrase, or provision of this act or the application  
43 thereof to any person be adjudged invalid by any court of competent  
44 jurisdiction, such judgment shall be confined in its operation to the  
45 section, part, phrase, provision, or application directly involved in  
46 the controversy in which the judgment shall have been rendered and  
47 it shall not affect or impair the validity of the remainder of this act  
48 or the application thereof to other persons.

1 c. The object, design and purpose of this act being the protection  
2 of the environment and public health through the proper and  
3 environmentally-sound management of electronic waste in this  
4 State, and the maintenance of a proper balance, as provided herein,  
5 between competing public and private interests, this act shall be  
6 liberally construed to give effect to the purposes thereof.  
7

8 18. This act shall take effect on January 1, 2007.  
9  
10

11 STATEMENT  
12

13 This bill is based on Model Electronic Recycling Legislation  
14 prepared by the Eastern Regional Conference of the Council of  
15 State Governments, in conjunction with the Northeast Recycling  
16 Council, Inc. The model bill, as revised in July 2006, establishes a  
17 comprehensive recycling system that ensures the safe and  
18 environmentally-sound management of electronic devices and  
19 components; encourages the design of electronic devices and  
20 components that are less toxic and more recyclable; and promotes  
21 the development of a statewide infrastructure for collection and  
22 recycling of so-called end-of-life electronics.

23 The bill provides that any manufacturer of covered electronic  
24 devices that is not in compliance with all financial and other  
25 requirements of this bill would be prohibited from selling or  
26 offering a covered electronic device for sale in this State.

27 A "covered electronic device" means all desktop or personal  
28 computers, computer monitors, portable computers, and televisions  
29 sold to consumers.

30 A "covered electronic device" does not include any of the  
31 following: (1) an electronic device that is a part of a motor vehicle  
32 or any component part of a motor vehicle assembled by, or for, a  
33 vehicle manufacturer or franchised dealer, including replacement  
34 parts for use in a motor vehicle; (2) an electronic device that is  
35 functionally or physically a part of a larger piece of equipment  
36 designed and intended for use in an industrial, commercial, or  
37 medical setting, including diagnostic, monitoring, or control  
38 equipment; (3) an electronic device that is contained within a  
39 clothes washer, clothes dryer, refrigerator, refrigerator and freezer,  
40 microwave oven, conventional oven or range, dishwasher, room air  
41 conditioner, dehumidifier, or air purifier; or (4) a telephone of any  
42 type unless it contains a video display area greater than four inches  
43 measured diagonally.

44 The bill provides further that it would be unlawful for any person  
45 to sell or offer for sale in this State a new covered electronic device  
46 from a manufacturer that is not in full compliance with the  
47 requirements of this bill. The Department of Environmental  
48 Protection (DEP) must maintain a list of all manufacturers in

1 compliance with these requirements post the list on the DEP's  
2 Internet website. Sellers of products in or into the State must  
3 consult the list prior to selling covered electronic devices in this  
4 State. A seller shall be considered to have complied with this  
5 responsibility if, on the date that the product was ordered from the  
6 manufacturer or its agent, the manufacturer was listed as being in  
7 compliance on the aforementioned website.

8 In addition, a manufacturer or retailer may not sell or offer for  
9 sale a covered electronic product in this State unless it is labeled  
10 with the manufacturer's brand, and the label is permanently affixed  
11 and readily visible.

12 Under the bill, every manufacturer must report to the DEP by  
13 January 30 of each year the total weight of covered electronic  
14 devices sold in this State the previous calendar year. Alternatively,  
15 a manufacturer may request that the DEP calculate the total weight  
16 of covered electronic devices sold in this State by using prorated  
17 national sales data based on State population.

18 Every manufacturer must register with the DEP by January 30 of  
19 each year and pay a registration fee of \$5,000.

20 Further, every manufacturer must submit an additional fee based  
21 on sales in this State to the DEP, which would be calculated using  
22 the following formula: the State recycling rate multiplied by the  
23 weight of sales of the manufacturer's covered electronic devices  
24 sold in this State during the previous calendar year, multiplied by  
25 no more than \$0.50 per pound.

26 In lieu of paying an additional fee, a manufacturer or a group of  
27 manufacturers may submit a plan to collect, transport, and recycle  
28 covered electronic devices. The plan must include the collection,  
29 transportation, and recycling of a quantity of covered electronic  
30 devices equal to the weight of sales of the manufacturer's covered  
31 electronic devices in this State during the previous calendar year  
32 multiplied by the State recycling rate. A group of manufacturers  
33 jointly submitting a plan must collect, transport, and recycle the  
34 sum of the obligations of each participating manufacturer.

35 Every plan shall be filed with a manufacturer's annual  
36 registration, and must include, at a minimum, the following  
37 information:

38 (1) Methods that will be used to collect the covered electronic  
39 devices including the name and locations of all collection and  
40 consolidation points;

41 (2) An estimate of the amount of covered electronic devices that  
42 will be collected annually;

43 (3) The processes and methods that will be used to recycle  
44 recovered covered electronic devices including a description of the  
45 disassembly, physical recovery operation, including crushing,  
46 shredding, grinding, glass-to-glass recycling, and for other  
47 operations that will be used, including the name and location of all  
48 facilities to be utilized;

1 (4) Documentation of audits of each processor used in the plan  
2 and compliance with processing standards established under the  
3 bill;

4 (5) A description of the accounting and reporting systems that  
5 will be employed to track progress toward fulfilling the plan's  
6 obligations;

7 (6) Means that will be utilized to publicize the collection  
8 opportunities;

9 (7) The intention of the registrant to fulfill its obligations  
10 through operation of its own program, either individually or in  
11 partnership with other manufacturers; and

12 (8) The total weight of covered electronic devices collected,  
13 transported and recycled the previous year.

14 Upon approval of the plan by the DEP, the payment of the annual  
15 fees based upon sales by the manufacturer would be waived. The  
16 DEP may reject the plan, in whole or in part, and may impose  
17 additional requirements as a condition of approval.

18 Any manufacturer that fails to comply with all the conditions and  
19 terms of an approved plan would be required to submit the  
20 following:

21 (1) A payment to the DEP to cover the cost of collecting,  
22 transporting, and recycling the unmet portion of its obligation. The  
23 payment shall be equal to the following formula: the quantity of the  
24 outstanding portion, in pounds, multiplied by no more than \$0.50,  
25 and;

26 (2) A penalty in the form of a payment equal to the cost of  
27 collecting, transporting and recycling 10% of the manufacturer's  
28 total obligation.

29 Manufacturers that collect, transport, and recycle covered  
30 electronic devices in excess of their obligation may sell credits to  
31 another registrant or apply that excess to the following year's  
32 recycling obligation.

33 The bill provides that every retailer must clearly post and  
34 provide information provided by the DEP that describes where and  
35 how to recycle the covered electronic device and opportunities and  
36 locations for the collection or return of the device, through the use  
37 of a toll-free telephone number and website, information included  
38 in the packaging, or information provided accompanying the sale of  
39 the covered electronic device. This information must be provided  
40 in clear written form in English and any other languages deemed to  
41 be primary languages by the State Department of Education.

42 A retailer may only sell products from registrants. Retailers  
43 must consult the list posted on the DEP's Internet website prior to  
44 selling covered electronic devices in this State. A retailer shall be  
45 considered to have complied with this responsibility if on the date  
46 that the product was ordered from the manufacturer or its agent, the  
47 manufacturer was listed as being in compliance on the website.

1 By February 15 of each year, the DEP must establish the State  
2 recycling rate, by calculating the ratio of the weight of total overall  
3 returns of covered electronic devices in the State to the weight of  
4 total overall sales of covered electronic devices in the State during  
5 the previous calendar year.

6 By March 1 of each year, the DEP must provide each registrant  
7 with its responsibility for fees from sales or for collection,  
8 recycling, and transportation in pounds for that year.

9 The DEP must organize, administer, and ensure that at least one  
10 electronics collection opportunity is available at least 5 days a week  
11 in each county throughout the State and in such a manner as to be  
12 convenient, to the maximum extent practicable and feasible, to all  
13 consumers in the county.

14 The DEP must ensure that collection sites do not place limits on  
15 the number of covered electronic devices permitted for drop-off by  
16 consumers.

17 The DEP must encourage the use of existing collection and  
18 consolidation infrastructures for handling covered electronic  
19 devices to the extent that this infrastructure is accessible on a  
20 regular and ongoing basis to at least 85% of the population of the  
21 State, is cost effective, and meets the environmentally sound  
22 management requirements of the bill.

23 In addition,. the DEP must: (1) maintain a list of registrants and  
24 post the list on the DEP's Internet website that is updated at least  
25 once a month; (2) organize and coordinate public education and  
26 outreach; and (3) use the revenues received from registrants for the  
27 sole purpose of fulfilling its responsibilities under the bill. In the  
28 event that expenses from administration, education, collection,  
29 transportation, and recycling activities exceed receipts, the DEP  
30 may borrow up to 10% of the projected annual State revenues from  
31 fees submitted under the bill from outside sources. Borrowed funds  
32 must be repaid within two years.

33 The DEP must prepare a plan every three years that: (1)  
34 establishes per-capita collection and recycling goals; and (2)  
35 identifies any necessary State actions to expand collection  
36 opportunities to achieve the per-capita collection and recycling  
37 goals. The plan must be posted on the DEP's Internet website and  
38 submitted to the Legislature.

39 The DEP must also prepare an annual report, which shall be  
40 posted on the DEP's Internet website and submitted to the  
41 Legislature. The annual report must include the following:

42 (1) A list of all parties that the DEP has designated as approved  
43 to receive payments for collection, transportation, or recycling, the  
44 amount of payments it has made to those parties, and the purpose of  
45 those payments;

46 (2) The total weight of covered electronic devices collected in  
47 the State the previous calendar year;

1 (3) The total weight of covered electronic devices sold in the  
2 State the previous calendar year;

3 (4) Progress toward achieving the overall annual total recovery  
4 and recycling goals described in the three-year plan prepared by the  
5 DEP;

6 (5) A complete listing of all collection sites operating in the  
7 State in the prior calendar year, the parties that operated them, and  
8 the amount of material by weight collected at each site;

9 (6) An evaluation of the effectiveness of the education and  
10 outreach program;

11 (7) An evaluation of the existing collection and processing  
12 infrastructure.

13 The DEP is required to maintain a website and toll-free number  
14 complete with up-to-date listings of where consumers can bring  
15 covered electronics products for recycling.

16 No more frequently than annually and no less frequently than  
17 biennially, the DEP must review, at a public hearing, the covered  
18 electronic device recycling and registration fees. Recommended  
19 changes to the covered electronic device recycling rate and  
20 registration fees must be included in the annual report required  
21 under the bill.

22 No fees or costs may be charged to consumers for the collection,  
23 transportation, or recycling of covered electronic products.

24 The DEP must engage in competitive bidding for the collection,  
25 transportation, and recycling of covered electronic devices in  
26 accordance with the procedures concerning the awarding of public  
27 contracts provided by law.

28 The DEP would make covered electronic device payments for  
29 the collection, transportation, and recycling of covered electronic  
30 devices to an authorized or approved person upon receipt of a  
31 completed and verified invoice.

32 In order to receive payment, proof will be required that:

33 (1) the covered electronic device was collected from a consumer  
34 who is a resident of the State or is otherwise located in the State, or  
35 who provides evidence that the device was purchased in this State  
36 after the bill's effective date;

37 (2) the collection, transportation, and recycling of the covered  
38 electronic devices was conducted in accordance with all local, state,  
39 and Federal laws, including the requirements established under this  
40 bill, and any rules or regulations adopted pursuant thereto; and

41 (3) no fees or costs were charged to the consumer.

42 The DEP must establish performance requirements in order for  
43 collectors, transporters, and recyclers to be eligible to receive funds.  
44 Every collector, transporter and recycler must, at a minimum,  
45 demonstrate compliance with the United States Environmental  
46 Protection Department's Plug-In to eCycling Guidelines for  
47 Materials Management as issued and available on the EPA's  
48 Internet website in addition to any other requirements mandated by

1 state or Federal law. The DEP must maintain an Internet website  
2 that includes a list of collectors, transporters, and recyclers that it  
3 has determined have met these performance standards.

4 The bill imposes a ban on the disposal of used covered electronic  
5 devices, or any of their components or subassemblies, as solid  
6 waste two years after the bill's effective date.

7 The State, including the Attorney General and the DEP, is  
8 authorized to initiate independent action to enforce the bill's  
9 provisions, including failure by the manufacturer to remit the fee to  
10 the DEP. Any funds awarded by the court shall be used first to  
11 offset enforcement expenses.

12 An offense would be considered:

13 (1) the sale of a new covered electronic device by any person  
14 that is not in full compliance with the bill's provisions;

15 (2) application for compensation for the collection,  
16 transportation and recycling of covered electronic products not  
17 collected within the State, or region;

18 (3) use of a qualified collection program to recycle covered  
19 electronic products not discarded within the State, or region;

20 (4) the knowing failure to report or accurately report any data  
21 required to be reported to the DEP pursuant to this act;

22 (5) non-payment of fees.

23 The DEP is authorized to participate in the establishment and  
24 implementation of a regional, multi-state organization or compact  
25 to assist in carrying out the requirements of this bill.

26 This bill is intended to govern all aspects of the collection and  
27 recycling of covered electronic devices in New Jersey. Upon the  
28 implementation of an acceptable national program to collect or  
29 recycle covered electronic devices, the provisions of this  
30 legislation, if enacted, would expire within the timeframe  
31 determined by Federal law.