

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3572

STATE OF NEW JERSEY
212th LEGISLATURE

ADOPTED JANUARY 3, 2008

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Assemblymen Connors, Egan, Senators B.Smith and Weinberg**

SYNOPSIS

“Electronic Waste Recycling Act.”

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.

(Sponsorship Updated As Of: 1/8/2008)

1 AN ACT concerning electronic waste management, and amending
2 P.L.1987, c.102, and supplementing Title 13 of the Revised
3 Statutes.

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

7
8 1. (New section) Sections 1 through 21 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) shall be
10 known and may be cited as the “Electronic Waste Management
11 Act.”

12
13 2. (New section) As used in sections 1 through 21 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill):

15 “Brand” means symbols, words, or marks that identify a covered
16 electronic device, rather than any of its components.

17 “Cathode ray tube” means a vacuum tube or picture tube used to
18 convert an electronic signal into a visual image.

19 “Computer” means an electronic, magnetic, optical,
20 electrochemical, or other high-speed data processing device
21 performing logical, arithmetic, or storage function, and may include
22 both a computer central processing unit and a monitor, but the term
23 shall not include an automated typewriter or typesetter, a portable
24 handheld calculator, a portable digital assistant, or other similar
25 device.

26 “Consumer” means a person who purchases a covered electronic
27 device in a transaction that is a retail sale.

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

44 “Department” means the Department of Environmental
45 Protection.

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 “Manufacturer” means any person: (1) who manufactures or
2 manufactured covered electronic devices under a brand that it owns
3 or owned or is or was licensed to use, other than a license to
4 manufacture covered electronic devices for delivery exclusively to
5 or at the order of the licensor; (2) who sells or sold covered
6 electronic devices manufactured by others under a brand that the
7 seller owns or owned or is or was licensed to use, other than a
8 license to manufacture covered electronic devices for delivery
9 exclusively to or at the order of the licensor; (3) who manufactures
10 or manufactured covered electronic devices without affixing a
11 brand; (4) who manufactures or manufactured covered electronic
12 devices to which the person affixes or affixed a brand that the
13 person neither owns or owned nor is or was licensed to use; or (5)
14 for whose account covered electronic devices manufactured outside
15 the United States are or were imported into the United States,
16 provided however, if, at the time such covered electronic devices
17 are or were imported into the United States, another person has
18 registered as the manufacturer of the brand of the covered electronic
19 devices pursuant to subsection b. of section 9 of this act, then
20 paragraph (5) of this definition shall not apply.

21 “Monitor” means a separate video display component of a
22 computer, whether sold separately or together with a computer
23 central processing unit and computer box, and includes a cathode
24 ray tube, liquid crystal display, gas plasma, digital light processing,
25 or other image projection technology, greater than four inches
26 measured diagonally, and its case, interior wires and circuitry, cable
27 to the central processing unit, and power cord.

28 “Obligation” means the return share in weight, identified for an
29 individual manufacturer, as determined by the department pursuant
30 to subsection a. of section 12 of this act.

31 “Orphan device” means a covered electronic device for which no
32 manufacturer can be identified, or for which the original
33 manufacturer no longer exists.

34 “Person” means an individual, trust firm, joint stock company,
35 business concern, and corporation, including, but not limited to, a
36 government department, partnership, limited liability company, or
37 association.

38 “Portable computer” means a computer and video display greater
39 than four inches in size that can be carried as one unit by an
40 individual, including a laptop computer.

41 “Program year” means a full calendar year beginning on or after
42 January 1, 2010.

43 “Purchase” means the taking, by sale, of title in exchange for
44 consideration.

45 “Recycling” means any process by which materials which would
46 otherwise become solid waste are collected, separated or processed
47 and returned to the economic mainstream in the form of raw

1 materials or products. “Recycling” shall not include energy
2 recovery or energy generation by means of incinerating electronic
3 waste whether apart or in combination with other wastes.

4 “Registrant” means a manufacturer of covered electronic devices
5 that is in full compliance with the requirements of this act.

6 “Retail sales” means the sale of covered electronic devices
7 through sales outlets, via the Internet, mail order, or other means,
8 whether or not the retailer has a physical presence in this State.

9 “Retailer” means a person who owns or operates a business that
10 sells new covered electronic devices in this State by any means to a
11 consumer.

12 “Return share” means the proportion of covered electronic
13 devices for which an individual manufacturer is responsible to
14 collect, transport, and recycle, as determined by the department
15 pursuant to subsection a. of section 12 of this act.

16 “Return share in weight” means the total weight of covered
17 electronic devices for which an individual manufacturer is
18 responsible to collect, transport, and recycle, as determined by the
19 department pursuant to subsection a. of section 12 of this act.

20 “Sale” or “sell” means any transfer for consideration of title,
21 including, but not limited to, transactions conducted through sales
22 outlets, catalogs, or the Internet, or any other, similar electronic
23 means, and excluding leases.

24 “Television” means a stand-alone display system containing a
25 cathode ray tube or any other type of display primarily intended to
26 receive video programming via broadcast, having a viewable area
27 greater than four inches measured diagonally, able to adhere to
28 standard consumer video formats and having the capability of
29 selecting different broadcast channels and support sound capability.

30 “Video display” means an output surface having a viewable area
31 greater than four inches when measured diagonally that displays
32 moving graphical images or a visual representation of image
33 sequences or pictures, showing a number of quickly changing
34 images on a screen in fast succession to create the illusion of
35 motion, including, if applicable, a device that is an integral part of
36 the display and cannot be easily removed from the display by the
37 consumer that produces the moving image on the screen. A “video
38 display” typically uses a cathode ray tube, liquid crystal display,
39 gas plasma, digital light processing, or other image projection
40 technology.

41
42 3. (New section) a. Beginning on January 1, 2009, and each
43 January 1 thereafter, each manufacturer of televisions offered for
44 sale for delivery in this State shall register with the department and
45 pay a registration fee of \$5,000. Each television manufacturer’s
46 registration and renewal shall include a list of all of the brands
47 under which its televisions are sold.

1 b. Each registered television manufacturer shall submit an
2 annual renewal of its registration to the department and pay to the
3 department a registration renewal fee of \$5,000 by January 1 of
4 each program year. Each television manufacturer's renewal shall
5 include an annual report.

6 c. In addition to reporting all brands under which its televisions
7 are sold, regardless of whether the brand is owned or licensed, the
8 manufacturer's annual report shall include the total weight of all
9 televisions sold in the State in the previous program year. In lieu of
10 providing this information, a registered television manufacturer
11 may request the department to calculate the total weight of new
12 televisions sold in the State by using prorated national sales data
13 based on State population.

14 d. A registered television manufacturer shall inform the
15 department, in writing, as soon as it becomes aware that it will
16 cease selling televisions in the State.

17 e. By January 1, 2010, each registered television manufacturer
18 shall participate in a statewide used television recycling program to
19 implement and finance the collection, transportation, and recycling
20 of used televisions. The statewide recycling program shall accept
21 all types and all brands of used televisions.

22 f. A registered television manufacturer or group of registered
23 television manufacturers may conduct its own collection,
24 transportation, and used television recycling program. The recycling
25 program shall accept all types and all brands of used televisions.
26 The registered television manufacturer or group of manufacturers
27 shall submit a report to the department annually by January 30,
28 beginning the year after the program is initiated. The report shall
29 include the total weight of used televisions collected from
30 consumers in this State by the manufacturer or group of
31 manufacturers during the previous program year and documentation
32 verifying collection and recycling of these used televisions.

33
34 4. (New section) a. Beginning January 1, 2010, each
35 registered television manufacturer shall pay to the department its
36 portion of the reasonable costs incurred by an authorized recycler
37 for the collection, transportation and recycling of used televisions
38 based on the television manufacturer's market share multiplied by
39 the total, in pounds, of used televisions collected under the used
40 television recycling and management programs pursuant to
41 subsection b. of this section.

42 (1) The department may suspend the registration of any
43 registered television manufacturer in arrears for more than 90 days.

44 (2) A television manufacturer that has had its registration
45 suspended pursuant to this subsection shall demonstrate that all past
46 due payments and a penalty equivalent to 10% of the past due

1 payments has been paid to the department prior to seeking
2 reinstatement of its registration.

3 b. By July 1, 2009, the department shall establish criteria for
4 county or municipal used television recycling and management
5 programs. The county or municipality shall maintain records of the
6 volume of used televisions collected and recycled and to report to
7 the department the name and address of each authorized recycler
8 and the number of pounds of used televisions delivered to each
9 authorized recycler. The department shall make payments to the
10 county or municipality, as the case may be, based upon the costs
11 incurred by each county and municipality for its used television
12 recycling and management program.

13 In those instances where a county or municipal used television
14 recycling and management program has not been adopted, the
15 department shall establish a used television recycling and
16 management program. The department shall identify, and enter into
17 agreements with, authorized recyclers who shall be authorized to
18 accept used televisions from county and municipal collection sites
19 as designated pursuant to sections 3 and 6 of P.L.1987, c.102
20 (C.13:1E-99.13 and 13:1E-99.16). The department shall require the
21 county or municipality to maintain records of the volume of used
22 televisions collected by each authorized recycler. The department
23 may make payments for the collection and recycling of used
24 televisions to an authorized recycler upon receipt of a completed
25 and verified invoice submitted to the department by the authorized
26 recycler in the form and manner determined by the department. The
27 department may determine a per unit payment for the recycling and
28 proper disposal of a used television pursuant to the program.

29 For the purposes of this subsection, "authorized recycler" means
30 a person who: (1) engages in the manual or mechanical separation
31 of covered electronic devices to recover components and
32 commodities contained therein for the purpose of re-use or
33 recycling; or (2) changes the physical or chemical composition of a
34 covered electronic device by deconstructing, size reduction,
35 crushing, cutting, sawing, compacting, shredding, or refining for the
36 purpose of segregating components, and for the purpose of
37 recovering or recycling those components, and who arranges for the
38 transport of those components to an end user.

39 Covered electronic devices shall not be sent to prisons for
40 recycling either directly or through intermediaries and nothing in
41 this section shall be construed to allow for the recycling of covered
42 electronic devices by prisoners. Any person committed to a jail,
43 prison, or other institution for the detention of persons charged with
44 or convicted of an offense shall be disqualified from being an
45 authorized recycler.

1 5. (New section) a. The Used Television Recycling and
2 Management Program Fund is established as a nonlapsing,
3 revolving fund in the Department of the Treasury. The fund shall be
4 administered by the Department of Environmental Protection and
5 credited with all registration and renewal fees paid pursuant to
6 section 3 of this act and all market share payments made pursuant to
7 section 4 of this act. Interest received on moneys in the fund shall
8 be credited to the fund.

9 b. All available moneys in the Used Television Recycling and
10 Management Program Fund shall be appropriated annually solely
11 for the following purposes and no others:

12 (1) To make payments to counties or municipalities based upon
13 the costs incurred by each county and municipality for its used
14 television recycling and management program;

15 (2) To provide funding for a State used television recycling and
16 management program, including the administrative expenses
17 thereof; and

18 (3) To make payments to authorized recyclers for the recycling
19 of used televisions.
20

21 6. (New section) a. Any manufacturer that is not in compliance
22 with all financial and other requirements of this act shall be
23 prohibited from selling or offering for sale in this State a covered
24 electronic device.

25 b. Beginning on January 1, 2010, it shall be unlawful for any
26 person to sell or offer for sale in this State a new covered electronic
27 device from a manufacturer that is not in full compliance with the
28 requirements of this act.

29 c. The department shall maintain a list of all manufacturers in
30 compliance with the requirements of this act and shall post the list
31 on the department's Internet website.

32 d. Sellers of products in or into the State shall consult the list
33 established by the department pursuant to subsection c. of this
34 section prior to selling covered electronic devices in this State. A
35 seller shall be considered to have complied with this responsibility
36 if, on the date that the product was ordered from the manufacturer
37 or its agent, the manufacturer was listed as being in compliance on
38 the aforementioned website.

39 The provisions of this section shall not apply to any
40 manufacturer or retailer of televisions offered for sale for delivery
41 in this State.
42

43 7. (New section) Beginning on January 1, 2009, a manufacturer
44 or retailer may not sell or offer for sale a covered electronic device
45 in this State unless the covered electronic device is labeled with the
46 manufacturer's brand, and the label is permanently affixed and
47 readily visible.

1 The provisions of this section shall not apply to any
2 manufacturer or retailer of televisions offered for sale for delivery
3 in this State.

4
5 8. (New section) Beginning on January 1, 2010, it shall be
6 unlawful for any person to sell or offer for sale in this State any
7 new covered electronic devices, including televisions, unless those
8 products comply with the applicable provisions of Directive
9 2002/95/EC of the European Union, adopted by the European
10 Parliament and the Council of the European Union on January 27,
11 2003, as implemented and interpreted through the decisions of the
12 Technical Adaptation Committee established by Directive
13 2002/95/EC.

14
15 9. (New section) a. (1) By January 30, 2011, and by each
16 January 30 thereafter, the department shall:

17 (a) have completed an auditable, statistically significant
18 sampling of covered electronic devices collected from consumers in
19 this State by the department during the previous program year. The
20 sampling information collected shall consist of a list of brands of
21 covered electronic devices and the weight of covered electronic
22 devices that are identified for each brand. The department's
23 sampling shall be conducted in accordance with a procedure
24 established by the department and may be conducted by a third-
25 party organization including a recycler, to be determined by the
26 department. The department may, at its discretion, be present at the
27 sampling and may audit the methodology and the results of the
28 third-party organization. The costs associated with the sampling
29 shall be recovered from the fees paid by manufacturers to the
30 department; and

31 (b) determine the total weight of covered electronic devices,
32 including orphan devices, collected from consumers in this State by
33 the department during the previous program year.

34 (2) If a manufacturer or group of manufacturers conducts its
35 own collection, transportation, and recycling program for covered
36 electronic devices, the manufacturer or group of manufacturers shall
37 submit a report to the department annually by January 30, beginning
38 the year after the program is initiated. The report shall include:

39 (a) the results of an auditable, statistically significant sampling
40 of covered electronic devices collected from consumers in this State
41 by the manufacturer or group of manufacturers during the previous
42 program year. The sampling information reported shall consist of a
43 list of brands of covered electronic devices and the weight of
44 covered electronic devices that are identified for each brand; and

45 (b) the total weight of covered electronic devices, including
46 orphan devices, collected from consumers in this State by the
47 manufacturer or group of manufacturers during the previous

1 program year and documentation verifying collection and recycling
2 of such devices.

3 b. By February 1, 2009, and each January 1 thereafter, each
4 manufacturer of covered electronic devices offered for sale for
5 delivery in this State shall register with the department and pay a
6 registration fee of \$5,000. Any manufacturer to whom the
7 department provides notification of a return share and return share
8 in weight pursuant to subsection a. of section 12 of this act and who
9 has not previously filed a registration shall file a registration with
10 the department within 30 days of receiving such notification from
11 the department. Each manufacturer's registration and renewal shall
12 include a list of all of the manufacturer's brands of covered
13 electronic devices.

14 The provisions of this section shall not apply to any
15 manufacturer or retailer of televisions offered for sale for delivery
16 in this State.

17

18 10. (New section) a. By June 1, 2009, each manufacturer to
19 whom the department provides, by April 2, 2009, a return share in
20 weight that is greater than zero shall:

21 (1) submit an additional fee to the department based on its
22 return share in weight of covered electronic devices. The fee shall
23 be calculated using the following formula: the manufacturer's
24 return share in weight multiplied by no more than \$0.50 per pound;
25 or

26 (2) submit a plan to the department to collect, transport and
27 recycle covered electronic devices.

28 b. Each manufacturer to whom the department provides, by
29 February 15, 2011 or by February 15 of any year thereafter, a return
30 share in weight that is greater than zero shall, by March 15 of that
31 year, comply with the requirements of paragraphs (1) or (2) of
32 subsection a. of this section.

33 c. An individual manufacturer submitting a plan in lieu of
34 payment of the fee set forth in subsection a. of this section shall
35 collect, transport, and recycle its return share in weight.

36 d. A group of manufacturers jointly submitting a plan in lieu of
37 payment of the fee set forth in subsection a. of this section shall
38 collect, transport, and recycle the sum of the obligations of each
39 participating manufacturer.

40 e. Every plan shall be filed with a manufacturer's annual
41 registration, and shall include:

42 (1) Methods that will be used to collect the covered electronic
43 devices including proposed collection services;

44 (2) The processes and methods that will be used to recycle
45 recovered covered electronic devices including a description of the
46 recycling processes that will be used, including the name and
47 location of all recyclers to be directly utilized by the plan;

1 (3) Means that will be utilized to publicize the collection
2 services, including specification of a website or toll-free telephone
3 number that provides information about the manufacturer's program
4 in sufficient detail to allow consumers to learn how to return their
5 covered electronic devices for recycling; and

6 (4) The intention of the registrant to fulfill its obligation through
7 operation of its own plan, either individually or with other
8 manufacturers.

9 Recovered covered electronic devices shall not be sent to prisons
10 for recycling either directly or through intermediaries and nothing
11 in this section shall be construed to allow for the recycling of
12 covered electronic devices by prisoners. Any person committed to a
13 jail, prison, or other institution for the detention of persons charged
14 with or convicted of an offense shall be disqualified from engaging
15 in the manual or mechanical separation of covered electronic
16 devices to recover components and commodities contained therein
17 for the purpose of re-use or recycling.

18 f. Before the fee set forth in subsection a. of this section may
19 be waived by the department, the plan shall be reviewed to
20 determine its compliance with subsection e. of this section and
21 approved by the department. Upon approval of the plan by the
22 department, the payment of the annual fee set forth in subsection a.
23 of this section shall be waived. The department may reject the plan,
24 in whole or in part, and may impose additional requirements as a
25 condition of approval.

26 g. If a manufacturer fails to comply with all the conditions and
27 terms of an approved plan, the manufacturer shall be required to
28 submit the following:

29 (1) A payment to the department to cover the cost of collecting,
30 transporting, and recycling the unmet portion of its obligation. The
31 payment shall be equal to the following formula: the quantity of the
32 outstanding portion, in pounds, multiplied by no more than \$0.50;
33 and

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

37 h. Manufacturers that collect, transport, and recycle covered
38 electronic devices in excess of their obligation may sell credits to
39 another registrant or apply that excess to the following year's
40 recycling obligation.

41 i. Whenever more than one person is within the definition of
42 manufacturer of a brand of a covered electronic device pursuant to
43 section 2 of this act, any one or more such persons may assume
44 responsibility for and satisfy the obligations of a manufacturer
45 under this act with respect to covered electronic devices bearing
46 that brand. In the event that no person assumes responsibility for
47 and satisfies the obligations of a manufacturer under this act with

1 respect to covered electronic devices bearing that brand, the
2 department may consider any one or more persons within such
3 definition to be the manufacturer of that brand.

4 j. The obligations under this act for a manufacturer who
5 manufactures or manufactured covered electronic devices, or who
6 sells or sold covered electronic devices manufactured by others,
7 under a brand that was previously used by a different person in the
8 manufacture of covered electronic devices shall extend to all
9 covered electronic devices bearing that brand.

10 k. Nothing in this act is intended to exempt any person from
11 liability the person would otherwise have under applicable law.

12 l. The provisions of this section shall not apply to any
13 manufacturer or retailer of televisions offered for sale for delivery
14 in this State.

15

16 11. (New section) a. A retailer shall provide information
17 provided by the department that describes where and how to recycle
18 the covered electronic device and opportunities and locations for
19 the collection or return of the device, through the use of a toll-free
20 telephone number and website, information included in the
21 packaging, or information provided accompanying the sale of the
22 covered electronic device. This information shall be provided in
23 clear written form in English and any other languages deemed to be
24 primary languages by the State Department of Education.

25 b. Beginning January 1, 2010, a retailer shall only sell products
26 from registrants. Retailers shall consult the list posted on the
27 department's Internet website pursuant to section 6 of this act prior
28 to selling covered electronic devices in this State. A retailer shall
29 be considered to have complied with this responsibility if on the
30 date that the product was ordered from the manufacturer or its
31 agent, the manufacturer was listed as being in compliance on the
32 aforementioned website.

33 The provisions of this section shall not apply to any
34 manufacturer or retailer of televisions offered for sale for delivery
35 in this State.

36

37 12. (New section) a. (1) The department shall determine the
38 return share for each program year for each manufacturer by
39 dividing the weight of covered electronic devices identified for each
40 manufacturer by the total weight of covered electronic devices
41 identified for all manufacturers. For the first program year, the
42 return share of covered electronic devices identified for each
43 manufacturer shall be based on the best available public return
44 share data from the United States, including data from other states,
45 for covered electronic devices from consumers. For the second and
46 each subsequent program year, the return share of covered
47 electronic devices identified for each manufacturer shall be based

1 on the most recent samplings of covered electronic devices
2 conducted in this State pursuant to subsection a. of section 9 of this
3 act.

4 (2) The department shall determine the return share in weight
5 for each program year for each manufacturer for whom a return
6 share is determined pursuant to paragraph (1) of this subsection by
7 multiplying the return share for each such manufacturer by the total
8 weight in pounds of covered electronic devices, including orphan
9 devices, collected from consumers the previous program year. For
10 the first program year, the total weight in pounds of covered
11 electronic devices shall be based on the best available public weight
12 data from the United States, including data from other states, for
13 covered electronic devices from consumers. For the second and
14 each subsequent program year, the total weight in pounds of
15 covered electronic devices shall be based on the total weight of
16 covered electronic devices, including orphan devices, determined
17 by the department pursuant to subsection a. of section 9 of this act.

18 (3) By April 2, 2010, the department shall provide each
19 manufacturer for whom a return share is determined pursuant to
20 paragraph (1) of this subsection with its return share and its return
21 share in weight for the first program year. Annually thereafter, by
22 February 15, beginning in 2012, the department shall provide each
23 manufacturer for whom a return share is determined pursuant to
24 paragraph (1) of this subsection with its return share and its return
25 share in weight for the second and subsequent program years.

26 b. The department shall receive fees from manufacturers as
27 provided in section 10 of this act.

28 c. (1) The department shall organize, administer, and ensure
29 that at least one electronics collection opportunity is available in
30 each county throughout the State and in such a manner as to be
31 convenient, to the maximum extent practicable and feasible, to all
32 consumers in the county.

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

36 d. (1) Beginning on April 1, 2010, the department shall
37 maintain a list of registrants and the brands reported in each
38 manufacturer's registration, and post the list on the department's
39 Internet website that is updated at least once a month.

40 (2) The department shall organize and coordinate public
41 education and outreach.

42 e. The department shall prepare a plan every three years that:
43 (1) establishes per-capita collection and recycling goals; and (2)
44 identifies any necessary State actions to expand collection
45 opportunities to achieve the per-capita collection and recycling
46 goals. The plan shall be posted on the department's Internet

1 website and submitted, pursuant to section 2 of P.L.1991, c.164
2 (C.52:14-19.1), to the Legislature.

3 f. The department shall prepare an annual report, which shall
4 be posted on the department's Internet website and submitted,
5 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
6 Legislature.

7 The annual report shall include the following:

8 (1) A list of all parties that the department has designated as
9 approved to receive payments for collection, transportation, or
10 recycling, the amount of payments it has made to those parties, and
11 the purpose of those payments;

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

14 (3) Progress toward achieving the overall annual total recovery
15 and recycling goals described in the plan prepared pursuant to
16 subsection e. of this section;

17 (4) A complete listing of all collection sites operating in the
18 State in the prior calendar year, the parties that operated them, and
19 the amount of material by weight collected at each site;

20 (5) An evaluation of the effectiveness of the education and
21 outreach program; and

22 (6) An evaluation of the existing collection and processing
23 infrastructure.

24 g. The program implemented to effectuate the provisions of
25 this act and its associated regulations shall be fully audited by an
26 independent, certified public accountant at the end of each calendar
27 year and the audit report shall be submitted, pursuant to section 2 of
28 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

29 h. The provisions of this section shall not apply to any
30 manufacturer or retailer of televisions offered for sale for delivery
31 in this State.

32

33 13. (New section) a. The department shall maintain an Internet
34 website and toll-free number complete with up-to-date listings of
35 where consumers can bring covered electronic devices for recycling
36 under the provisions of this act.

37 b. The department shall not be held financially liable or
38 responsible for any violation of federal, State, or local law by any
39 person to whom the department makes payment pursuant to section
40 14 of this act.

41 c. No more frequently than annually and no less frequently
42 than biennially, the department shall review, at a public hearing, the
43 covered electronic device recycling rate and registration fees.
44 Recommended changes to the covered electronic device recycling
45 rate and registration fees shall be included in the annual report
46 required pursuant to subsection f. of section 12 of this act.

1 d. No fees or costs may be charged to consumers for the
2 collection, transportation, or recycling of covered electronic
3 devices.

4
5 14. (New section) The department shall engage in competitive
6 bidding for the collection, transportation, and recycling of covered
7 electronic devices in accordance with the procedures concerning the
8 awarding of public contracts provided in P.L.1954, c.48 (C.52:34-6
9 et seq.).

10 a. The department shall make payments for the collection,
11 transportation, and recycling of covered electronic devices to an
12 authorized or approved person, pursuant to this section, upon
13 receipt of a completed and verified invoice submitted to the
14 department in the form and manner determined by the department.

15 b. In order to receive payment, proof will be required that:

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

20 (2) the collection, transportation, and recycling of the covered
21 electronic devices was conducted in accordance with all federal,
22 State, and local laws, including the requirements established under
23 this act, and any rules or regulations adopted pursuant thereto; and

24 (3) no fees or costs were charged to the consumer.
25

26 15. (New section) a. Covered electronic devices collected
27 through any program in this State, whether by manufacturers,
28 retailers, for-profit or not-for profit corporations, or units of
29 government, or organized by the department, shall be recycled in a
30 manner that is in compliance with all applicable federal, State, and
31 local laws, regulations, and ordinances, and shall not be exported
32 for disposal in a manner that poses a significant risk to the public
33 health or the environment.

34 The provisions of this subsection shall apply to the collection
35 and recycling of used televisions.

36 b. The department shall establish performance requirements in
37 order for collectors, transporters, and recyclers to be eligible to
38 receive funds from the department. Every collector, transporter,
39 and recycler shall, at a minimum, demonstrate compliance with the
40 United States Environmental Protection Agency's Plug-In to
41 eCycling Guidelines for Materials Management as issued and
42 available on the United States Environmental Protection Agency's
43 Internet website in addition to any other requirements mandated by
44 federal or State law. The department shall maintain an Internet
45 website that shall include a list of collectors, transporters, and
46 recyclers that it has determined have met these performance
47 requirements.

1 16. (New section) On and after January 1, 2010, no person shall
2 knowingly dispose of a used covered electronic device, or any of
3 the components or subassemblies thereof, as solid waste.

4
5 17. (New section) a. The State, including the Attorney General
6 and the department, shall be authorized to initiate independent
7 action to enforce any provision of this act, including failure by a
8 manufacturer to remit the registration fee required pursuant to
9 section 9 of this act, the fee required pursuant to section 10 of this
10 act, or any fee required pursuant to subsection b. of section 18 of
11 this act to the department. Any funds awarded by the court shall be
12 used first to offset enforcement expenses. Money in excess of the
13 enforcement expenses shall be deposited into a separate account,
14 and shall be dedicated for use by the department solely for the
15 purposes of administering and enforcing the provisions of this act
16 and any rules or regulations adopted pursuant thereto.

17 b. Violations of the act include, but are not limited to:

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

20 (2) the application for compensation for the collection,
21 transportation, and recycling of covered electronic devices not
22 collected within the State, or region as provided in section 19 of this
23 act;

24 (3) the use of a qualified collection program to recycle covered
25 electronic devices not discarded within the State, or region as
26 provided in section 19 of this act;

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

29 (5) the non-payment of any fee required pursuant to this act.

30
31 18. (New section) a. The department shall adopt, pursuant to
32 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), rules and regulations as are necessary to effectuate the
34 purposes of this act.

35 b. The department may, in accordance with a fee schedule
36 adopted as a rule or regulation pursuant to the provisions of the
37 "Administrative Procedure Act," establish and charge reasonable
38 fees for any of the services to be performed in connection with this
39 act, which shall cover the full costs incurred by the department for
40 the review of plans and for other costs incurred by the department
41 for implementation of this act.

42
43 19. (New section) The department is authorized to participate
44 in the establishment and implementation of a regional, multi-state
45 organization or compact that is consistent with the requirements
46 of this act.

1 20. (New section) This act is intended to govern all aspects of
2 the collection and recycling of covered electronic devices as those
3 terms are defined in this act. Upon a determination by the
4 Department of Environmental Protection of an equivalent national
5 program to collect or recycle covered electronic devices, the
6 Commissioner of Environmental Protection shall notify, in writing,
7 the Governor, the President of the Senate and the Speaker of the
8 General Assembly, and the members of the Senate Environment
9 Committee and the Assembly Environment and Solid Waste
10 Committee, or their successors, of this determination.

11 The provisions of this act shall expire 60 days after the date of
12 the notification required pursuant to this section or within the
13 timeframe provided by federal law, as appropriate.

14 The department shall provide notice in the New Jersey Register
15 of any determination made pursuant to this section, and shall take
16 any administrative action necessary in order to implement the
17 national program.

18

19 21. (New section) By January 1, 2013, the department shall
20 prepare a report, which shall be posted on the department's Internet
21 website and submitted, pursuant to section 2 of P.L.1991, c.164
22 (C.52:14-19.1), to the Legislature, assessing the success or failure
23 of the electronic waste management system implemented pursuant
24 to the provisions of this act relative to the statutory management of
25 covered electronic devices in other states, including jurisdictions
26 that have adopted a producer responsibility model versus those that
27 have adopted an advance recovery fee approach, or both, with
28 respect to the recycling of used televisions and other covered
29 electronic devices.

30

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

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

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

41 (1) Designation of a district recycling coordinator;

42 (2) Designation of the recyclable materials to be source
43 separated in each municipality which shall include, in addition to
44 leaves, at least three other recyclable materials separated from the
45 municipal solid waste stream;

- 1 (3) Designation of the strategy for the collection, marketing and
2 disposition of designated source separated recyclable materials in
3 each municipality;
- 4 (4) Designation of recovery targets in each municipality to
5 achieve the maximum feasible recovery of recyclable materials
6 from the municipal solid waste stream which shall include, at a
7 minimum, the following schedule:
- 8 (a) The recycling of at least 15% of the total municipal solid
9 waste stream by December 31, 1989;
- 10 (b) The recycling of at least 25% of the total municipal solid
11 waste stream by December 31, 1990; and
- 12 (c) The recycling of at least 50% of the total municipal solid
13 waste stream, including yard waste and vegetative waste, by
14 December 31, 1995; and
- 15 (5) Designation of countywide recovery targets to achieve the
16 maximum feasible recovery of recyclable materials from the total
17 solid waste stream which shall include, at a minimum, the recycling
18 of at least 60% of the total solid waste stream by December 31,
19 1995.
- 20 For the purposes of this subsection, "total municipal solid waste
21 stream" means the sum of the municipal solid waste stream
22 disposed of as solid waste, as measured in tons, plus the total
23 number of tons of recyclable materials recycled; and "total solid
24 waste stream" means the aggregate amount of solid waste generated
25 within the boundaries of any county from all sources of generation,
26 including the municipal solid waste stream.
- 27 c. Each district recycling plan, in designating a strategy for the
28 collection, marketing and disposition of designated recyclable
29 materials in each municipality, shall authorize municipalities that
30 adopt a recycling ordinance pursuant to subsection b. of section 6 of
31 P.L.1987, c.102 (C.13:1E-99.16) to limit the collection of
32 designated recyclable materials to specified operating hours in order
33 to preserve the peace and quiet in neighborhoods during the hours
34 when most residents are asleep.
- 35 Each district recycling plan may be modified after adoption
36 pursuant to a procedure set forth in the adopted plan as approved by
37 the department.
- 38 d. A district recycling plan may be modified to require that
39 each municipality within the county revise the ordinance adopted
40 pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-
41 99.16) to provide for the source separation and collection of used
42 dry cell batteries as a designated recyclable material.
- 43 e. Within 12 months of the effective date of P.L. _____,
44 c. (C. _____) (pending before the Legislature as this bill), each
45 district recycling plan shall be modified to include the designation
46 of collection sites for the delivery of used televisions, and may be

1 modified to include the designation of collection sites for the
2 delivery of other covered electronic devices.

3 For the purposes of this subsection, "television" and "covered
4 electronic device," respectively, mean the same as those terms are
5 defined in section 2 of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

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

8

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

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

15 a. (1) Each municipality shall provide for a collection system
16 for the recycling of the recyclable materials designated in the
17 district recycling plan as may be necessary to achieve the
18 designated recovery targets set forth in the plan in those instances
19 where a recycling collection system is not otherwise provided for
20 by the generator or by the county, interlocal service agreement or
21 joint service program, or other private or public recycling program
22 operator.

23 (2) Each municipality shall provide for collection sites for the
24 delivery of used televisions by consumers, and the delivery of other
25 covered electronic devices if designated in the district recycling
26 plan.

27 For the purposes of this paragraph, "television" and "covered
28 electronic device," respectively, mean the same as those terms are
29 defined in section 2 of P.L. , c. (C.)(pending before the
30 Legislature as this bill).

31 b. The governing body of each municipality shall adopt an
32 ordinance which requires persons generating municipal solid waste
33 within its municipal boundaries to source separate from the
34 municipal solid waste stream, in addition to leaves, the specified
35 recyclable materials for which markets have been secured and,
36 unless recycling is otherwise provided for by the generator, place
37 these specified recyclable materials for collection in the manner
38 provided by the ordinance.

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

46 The revised master plan shall include provisions for the
47 collection, disposition and recycling of recyclable materials

1 designated in the municipal recycling ordinance adopted pursuant to
2 subsection b. of this section, and for the collection, disposition and
3 recycling of designated recyclable materials within any
4 development proposal for the construction of 50 or more units of
5 single-family residential housing or 25 or more units of multi-
6 family residential housing and any commercial or industrial
7 development proposal for the utilization of 1,000 square feet or
8 more of land.

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

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

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

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

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

41

42 24. This act shall take effect immediately.