

SENATE, No. 554

STATE OF NEW JERSEY
212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

"Electronic Waste Producer Responsibility Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning electronic waste management, supplementing
2 P.L.1987, c.102 and amending P.L.1991, c.521.

3

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

6

7 1. (New section) This act shall be known and may be cited as
8 the "Electronic Waste Producer Responsibility Act."

9

10 2. (New section) The Legislature finds and declares that:

11 (1) Electronic waste contains lead, mercury, chromium,
12 cadmium, polyvinyl chloride, mixed plastics, beryllium, brominated
13 flame retardants and other hazardous substances, and therefore
14 poses a threat to human health and the environment if improperly
15 disposed of at the end of their useful life;

16 (2) Less than ten percent of discarded electronic equipment are
17 currently recycled, with the remainder stockpiled or improperly
18 disposed of, while large quantities of the toxic equipment intended
19 for recycling are shipped overseas for dismantling under horrific
20 conditions and many domestic processors can not attest to the
21 ultimate disposition of the materials collected;

22 (3) The full extent of the public health threat and environmental
23 contamination resulting from electronic equipment entering the
24 waste stream through disposal into solid waste landfills or
25 incinerators is unknown, but is estimated that forty percent of the
26 heavy metals in solid waste landfills come from electronic discards;
27 and

28 (4) Currently, producers of electronic equipment bear none of the
29 burden or responsibility for safely managing discarded electronic
30 equipment at the end of its useful life, burdening State taxpayers,
31 local governments and end users with these costs and
32 responsibilities;

33 The Legislature therefore determines that it is in the public
34 interest to shift the financial responsibility for the collection and
35 recycling of discarded electronic waste from the taxpayers of New
36 Jersey to the producers of electronic products, as hereinafter
37 provided.

38

39 3. (New section) As used in this act:

40 "Business concern" means any corporation, association, firm,
41 partnership, sole proprietorship, trust or other form of commercial
42 organization;

43 "Commissioner" means the Commissioner of Environmental
44 Protection;

45 "Department" means the Department of Environmental

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 Protection;

2 "Electronic equipment" means equipment that is dependent on
3 electric currents electromagnetic fields in order to work properly
4 and contains one or more printed circuit boards, including, but not
5 limited to, computer equipment including cathode ray tubes, display
6 monitors, central processing units, keyboards, printers, computer
7 peripherals; display monitors, and displays; telecommunication
8 equipment including telephones, cellular telephones, facsimile
9 machines, answering machines; small electronic devices and
10 appliances containing one or more circuit boards; video and stereo
11 equipment; televisions, toys, games and educational devices
12 containing one or more printed circuit boards; and major household
13 appliances containing one or more printed circuit boards;

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

18 "Historic electronic waste" means electronic equipment which
19 became electronic waste prior to the effective date of this act, the
20 producer of which is a business concern still in business as of the
21 effective date of this act;

22 "Orphan electronic waste" means electronic waste manufactured
23 by or bearing the brand name of a business concern which is no
24 longer in business as of the effective date of this act;

25 "Person" means any individual or business concern;

26 "Producer" means any person that, either as of the effective date
27 of this act or thereafter, and regardless of the selling technique used,
28 including by means of distance communication: (1) manufactures
29 and sells electronic equipment under its own brand; (2)
30 manufactures and sells electronic equipment without affixing a
31 brand; (3) resells electronic equipment produced by other suppliers
32 under its own brand and label; or (4) imports or exports electronic
33 equipment into this State;

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

40 "Resource recovery facility" means a solid waste facility
41 constructed and operated for the incineration of solid waste for
42 energy production and the recovery of metals and other materials
43 for reuse;

44 "Re-use" means any operation by which electronic waste or
45 components thereof are used for the same purpose for which they
46 were conceived, including the continued use of the electronic
47 equipment or components thereof which are returned to recyclers or
48 producers;

1 "Sanitary landfill facility" means a solid waste facility at which
2 solid waste is deposited on or in the land as fill for the purpose of
3 permanent disposal or storage for a period exceeding six months,
4 except that it shall not include any waste facility approved for
5 disposal of hazardous waste.

6
7 4. (New section) a. Within 24 months of the effective date of
8 this act, every producer of electronic equipment sold, offered for
9 sale, or offered for promotional purposes in this State shall prepare
10 and submit an electronic waste management plan, in writing, to the
11 department for implementing a program for financing the
12 environmentally-sound management of discarded and obsolete
13 electronic equipment, including orphan electronic waste and
14 historic electronic waste.

15 b. Every producer of electronic equipment sold, offered for sale,
16 or offered for promotional purposes in this State shall be
17 responsible for financing the environmentally-sound management
18 of the electronic waste from its own products, but may execute this
19 obligation through individual financing schemes or in cooperation
20 with other producers.

21 c. Consumers and electronic equipment end users may be
22 responsible for delivering electronic waste into the collection
23 system, as may be provided for in the electronic waste management
24 plan; provided, however, that a producer may include direct
25 collection, reverse delivery systems, or reverse logistics systems in
26 the electronic waste management plan.

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

28 e. Any producer that fails to implement a financial responsibility
29 program within the time provided for in this section shall be
30 prohibited from selling its products in this State.

31
32 5. (New section) a. Within 6 months of the effective date of
33 this act, every producer of electronic equipment sold, offered for
34 sale, or offered for promotional purposes in this State shall prepare
35 and submit an electronic waste management plan, in writing, to the
36 department, which is designed to meet the producer's
37 responsibilities under this act.

38 b. Each electronic waste management plan submitted by a
39 producer shall provide, at a minimum, that the producer will
40 participate in a national collection program for computer products
41 and cathode ray tubes that will be fully implemented in this State no
42 later than 6 months following the effective date of this act and that
43 the collection program will be consistent with the requirements of
44 this section and with the performance standards established by the
45 department.

46 The department shall not approve an electronic waste
47 management plan unless the department finds, in writing, that the
48 plan, or the collection program, will provide:

1 (1) An effective system for financing the collection, treatment,
2 recovery, re-use, and disposition of all electronic equipment sold,
3 offered for sale, or offered for promotional purposes in this State by
4 the producer;

5 (2) A plan for financing that producer's share of orphan
6 electronic waste and historic electronic waste in this State, as
7 determined by the department, as of the effective date of the
8 producer's financial obligation;

9 (3) A plan for complying with the labeling, consumer
10 notification, and public education requirements of this act that are
11 necessary to ensure the protection of electronic equipment users,
12 processors and recyclers, and ensure participation in the producer's
13 plan;

14 (4) Documentation of the willingness of all necessary parties
15 involved to implement the proposed plan, and assurances that the
16 plan will comply with all applicable State and local environmental
17 laws and regulations;

18 (5) A description of the performance measures to be used and
19 reported by the producer to the department to demonstrate that the
20 collection system is meeting the measures of the collection
21 program's effectiveness required by the department; and

22 (6) A description of the alternative or additional actions that will
23 be implemented by the producer to improve the collection, recovery
24 and recycling systems in the event that the collection program
25 targets are not met.

26 c. The department may, in accordance with a fee schedule
27 adopted as a rule or regulation pursuant to the provisions of the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), establish and charge reasonable fees for any of the services to
30 be performed in connection with this section, which shall cover the
31 full costs incurred by the department for the review of proposed
32 plans and for other costs incurred by the department for
33 implementation of this section.

34 d. Upon a determination by the department that a producer is not
35 meeting the performance standards established pursuant to this act
36 relating to the reduction or elimination of hazardous materials and
37 to the collection and recycling of electronic waste, the department
38 may order the producer to take actions the department deems
39 necessary to achieve the performance standards.

40 e. Any producer that fails to meet any of the requirements of this
41 section within the time frame required shall be prohibited from
42 selling electronic equipment in this State.

43

44 6. (New section) a. No person shall knowingly dispose of
45 electronic waste, including the constituent sub-units or materials
46 comprising the waste, including, but not limited to, lead, mercury,
47 chromium, cadmium, polyvinyl chloride, mixed plastics, beryllium,
48 brominated flame retardants and other hazardous substances, as

1 solid waste.

2 b. No solid waste collector registered pursuant to sections 4 and
3 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) shall, at any time,
4 knowingly collect electronic waste, including the constituent sub-
5 units or materials comprising the waste, including, but not limited
6 to, lead, mercury, chromium, cadmium, polyvinyl chloride, mixed
7 plastics, beryllium, brominated flame retardants and other
8 hazardous substances, placed for collection and disposal as solid
9 waste.

10 c. A solid waste collector may refuse to collect the contents of a
11 solid waste container containing a visible quantity of electronic
12 waste, including the constituent sub-units or materials comprising
13 the waste, including, but not limited to, lead, mercury, chromium,
14 cadmium, polyvinyl chloride, mixed plastics, beryllium, brominated
15 flame retardants and other hazardous substances.

16 d. No sanitary landfill facility or resource recovery facility in
17 this State shall knowingly accept for disposal any truckload or roll-
18 off container of solid waste containing a visible quantity of
19 electronic waste, including the constituent sub-units or materials
20 comprising the waste, including, but not limited to, lead, mercury,
21 chromium, cadmium, polyvinyl chloride, mixed plastics, beryllium,
22 brominated flame retardants and other hazardous substances, at any
23 time.

24 e. The owner or operator of a sanitary landfill facility or
25 resource recovery facility may refuse to accept for disposal any
26 truckload or roll-off container of solid waste containing a visible
27 quantity of electronic waste, including the constituent sub-units or
28 materials comprising the waste, including, but not limited to, lead,
29 mercury, chromium, cadmium, polyvinyl chloride, mixed plastics,
30 beryllium, brominated flame retardants and other hazardous
31 substances.

32

33 7. (New section) a. Within 12 months of the effective date of
34 this act, every producer of electronic equipment sold, offered for
35 sale, or offered for promotional purposes in this State shall phase-
36 out the use of lead, mercury, cadmium, hexavalent chromium,
37 brominated flame retardants, and polyvinyl chloride and only offer
38 for sale electronic equipment that contain less harmful alternatives.

39 b. If a producer provides sufficient demonstration to the
40 department that it is technically impossible to use an alternative
41 substance, a limited term exemption may be issued by the
42 department. An exemption shall be rescinded by the department
43 when the department determines, in writing, that a less harmful
44 alternative for the substance can be used.

45 c. If the exemption is granted by the department, the department
46 may assign a limited amount of time before the exemption expires
47 to ensure that producers are investing in research and development
48 to identify an appropriate less harmful alternative.

1 8. (New section) a. Within 12 months of the effective date of
2 this act, all electronic equipment sold, offered for sale, or offered
3 for promotional purposes in this State shall be clearly marked or
4 labeled, or informational materials shall be provided with the new
5 product, which provide consumers and end users with information
6 relating to the following:

7 (1) the hazardous materials contained in the electronic equipment
8 and the parts or sub-units which contain the particular substances;

9 (2) the requirements not to dispose of electronic equipment in
10 sanitary landfill facilities, resource recovery facilities or any other
11 means not approved as part of the producer's electronic waste
12 management plan; and

13 (3) a toll-free phone number and Internet web site address where
14 consumers can obtain information and instructions about the safe
15 collection of the electronic product through the producer's
16 electronic waste management plan.

17 b. As part of an approved electronic waste management plan, a
18 producer shall implement a consumer education plan that will
19 provide consumers with information about:

20 (1) the prohibition on disposal of electronic waste by any means
21 not included as part of the producer' approved electronic waste
22 management plan;

23 (2) the electronic waste return and collection systems available
24 to them;

25 (3) the potential effects on the environment and human health as
26 a result of the presence of hazardous substances contained in
27 electronic equipment and the dangers of improper disposal; and

28 (4) the consumers' and electronic equipment users' roles in
29 contributing to the re-use, recycling, and other forms of electronic
30 waste recovery.

31 c. Within 24 months following implementation of the producer's
32 electronic waste management plan, each producer must demonstrate
33 to the department that it has achieved a level of 85% public
34 awareness of the program for each of its covered product categories
35 through independent public polling. Producers may collectively
36 undertake such a demonstration of public awareness provided that
37 the polling instrument is designed to identify public awareness of a
38 majority of producers' programs or a majority of the electronic
39 equipment types covered by this act. The design, protocols and
40 implementation plan for the opinion polling required in this section
41 must be approved by the department.

42 d. As part of an approved electronic waste management plan,
43 and to facilitate the environmentally-sound management of
44 electronic waste, every producer shall demonstrate to the
45 department that adequate measures have been taken to provide
46 information to recyclers concerning the producer's electronic
47 equipment. No later than 12 months after new electronic equipment
48 enters the market, producers shall provide new information to

1 recyclers regarding the end-of-life treatment of the new product
2 relating to disassembly, material content, and safety concerns.

3

4 9. (New section) a. All persons collecting, recovering, and
5 recycling electronic waste as part of an approved electronic waste
6 management plan shall protect the health and safety of their
7 workers and contractors by:

8 (1) providing clear evidence to the department, in writing, of
9 compliance with all State and federal occupational safety and health
10 laws and regulations;

11 (2) performing routine industrial hygiene monitoring and
12 quarterly reporting for all facilities for all hazardous materials of
13 concern, including, but not limited to, monitoring for airborne lead
14 and bromine, chlorine, and mercury compounds; and

15 (3) performing routine human health monitoring and quarterly
16 reporting in accordance with all applicable privacy protections for
17 all workers and contractors, including, but not limited to, blood
18 testing for exposure to lead and bromine, chlorine, and mercury
19 compounds.

20 b. No approved electronic waste management plan may include
21 reliance on prison labor unless all incarcerated workers involved in
22 the processing and recycling of electronic waste are provided with
23 compensation equivalent to market rate wages for the work
24 performed and are afforded the protections of federal and State
25 occupational safety and health laws and regulations, as well as the
26 additional worker safety and health protections required by this act.

27

28 10. (New section) a. No person who collects, recovers, treats,
29 processes, or recycles electronic waste shall export electronic waste
30 to any country where the export of hazardous waste is prohibited by
31 the Basel Ban Amendment decision (Decision III/1) of the Basel
32 Convention on the Control of Transboundary Movement of
33 Hazardous Waste and Their Disposal.

34 b. No later than January 1 of each year, every producer shall
35 submit to the department written documentation, in a form and
36 manner determined by the department, that the implementation of
37 the producer's approved electronic waste management plan has not
38 resulted in the overseas export of electronic waste to any country
39 prohibited by this section.

40

41 11. (New section) a. The provisions of P.L.1971, c.257
42 (C.52:34-21 et seq.) or any rules and regulations adopted pursuant
43 thereto to the contrary notwithstanding, no later than 6 months
44 following the effective date of this act the Director of the Division
45 of Purchase and Property in the Department of the Treasury shall
46 establish purchasing and procurement policies requiring vendors of
47 electronic equipment sold to the State to take back electronic waste
48 when the equipment becomes obsolete, is discarded or is otherwise

- 1 taken out of service.
- 2 b. Notwithstanding other policies or guidelines for the
3 procurement of equipment, supplies and other products, the
4 Director of the Division of Purchase and Property in the Department
5 of the Treasury shall, upon consultation with the department, review
6 and modify all bid and product specifications relating to the
7 purchase of electronic equipment so that the specifications do not
8 discriminate against, but encourage the maximum purchase of
9 electronic equipment that meets the environmental performance
10 standards established pursuant to this act relating to the reduction or
11 elimination of hazardous materials.
- 12
- 13 12. (New section) a. The electronic waste management plans
14 required pursuant to this act shall be submitted to, reviewed by, and
15 approved or disapproved by the department on a timely basis.
16 Plans shall be evaluated based upon their sufficiency in light of all
17 the required elements and the department shall develop a means for
18 scoring initial submission and providing feedback to producers for
19 integration into their final approved electronic waste management
20 plans.
- 21 b. Reports detailing performance of the producer's financial
22 responsibility program and detailing compliance with all the
23 requirements set forth herein shall be submitted to the department
24 no later than January 1 of each year. All such reports shall be
25 reviewed within 6 months of their submission and notices of
26 deficiency or noncompliance provided by the department to
27 producers by the end of the following quarter.
- 28 c. Annual reports required under this section, and all other
29 reports outlining the results of the implementation of a producer's
30 electronic waste management plan for the current year and 2 prior
31 years, shall be made available to the general public through the
32 Internet, or upon request, at cost.
- 33
- 34 13. (New section) Each person has the right to a healthful
35 environment and protection from contamination resulting from the
36 disposal of electronic waste. Any person may enforce this right, as
37 well as enforce the provisions and requirements of this act, against
38 any party, government or private, through appropriate legal
39 proceedings, including declaratory and equitable relief, civil
40 penalties, and restoration damages, to protect the public health and
41 environment of the State of New Jersey from pollution, impairment
42 or destruction resulting from the unlawful disposal of electronic
43 waste. The court may award the full costs of litigation, including,
44 but not limited to, reasonable expert witness and attorneys' fees, to
45 the plaintiffs should they prevail. This provision is supplementary
46 to existing rights and procedures provided by law.
- 47
- 48 14. (New section) The department shall adopt, pursuant to the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.), rules and regulations as are necessary to effectuate the
3 purposes of this act.

4
5 15. (New section) It is the intent of the Legislature that, except
6 as otherwise specifically provided in this act, in the event of any
7 conflict or inconsistency in the provisions of this act and any other
8 acts pertaining to matters herein established or provided for or in
9 any rules and regulations adopted under this act and under any other
10 acts, to the extent of such conflict or inconsistency, the provisions
11 of this act and the rules and regulations adopted hereunder shall be
12 enforced and the provisions of such other acts and rules and
13 regulations adopted thereunder shall be of no effect.

14
15 16. (New section) The provisions of this act shall be severable,
16 and if any section, part, phrase, or provision of this act or the
17 application thereof to any person be adjudged invalid by any court
18 of competent jurisdiction, such judgment shall be confined in its
19 operation to the section, part, phrase, provision, or application
20 directly involved in the controversy in which the judgment shall
21 have been rendered and it shall not affect or impair the validity of
22 the remainder of this act or the application thereof to other persons.

23
24 17. (New section) The object, design and purpose of this act
25 being the protection of the environment and public health through
26 the proper and environmentally-sound management of electronic
27 waste in this State, and the maintenance of a proper balance, as
28 provided herein, between competing public and private interests,
29 this act shall be liberally construed to give effect to the purposes
30 thereof.

31
32 18. Section 16 of P.L.1991, c.521 (C.13:1E-99.74) is amended
33 to read as follows:

34 16. Whenever a county prepares and adopts a district household
35 hazardous waste management plan, the commissioner may require
36 the plan to be adopted as an amendment to the district solid waste
37 management plan required pursuant to the "Solid Waste
38 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.). Any district
39 household hazardous waste management plan adopted by a county
40 shall be subject to approval by the department.

41 a. Each district household hazardous waste management plan,
42 subject to approval by the department, shall identify the county
43 strategy or strategies for the collection and disposal of household
44 hazardous waste, which shall, at a minimum:

45 (1) provide for the collection and disposal of used mercuric
46 oxide batteries, nickel-cadmium rechargeable batteries and sealed
47 lead rechargeable batteries at least once every 90 days;

48 (2) be consistent with the provisions of the district recycling plan

1 required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13);
2 (3) designate, if necessary, one or more collection sites within
3 the county for household hazardous waste collection and disposal;
4 and
5 (4) include such other information as may be prescribed in rules
6 or regulations of the department.
7 b. A district household hazardous waste management plan,
8 subject to approval by the department, may provide for the
9 collection and disposal of any used dry cell batteries, cathode ray
10 tubes from used computer monitors or television sets, or other
11 forms of electronic waste. For the purposes of this section,
12 "electronic equipment" means equipment that is dependent on
13 electric currents electromagnetic fields in order to work properly
14 and contains one or more printed circuit boards, including, but not
15 limited to, computer equipment including cathode ray tubes, display
16 monitors, central processing units, keyboards, printers, computer
17 peripherals; display monitors, and displays; telecommunication
18 equipment including telephones, cellular telephones, facsimile
19 machines, answering machines; small electronic devices and
20 appliances containing one or more circuit boards; video and stereo
21 equipment; televisions, toys, games and educational devices
22 containing one or more printed circuit boards; and major household
23 appliances containing one or more printed circuit boards; and
24 "electronic waste" means electronic equipment which has been
25 discarded, become obsolete, ceased to function, is no longer wanted
26 by its owner, or for any other reason has become available for
27 recycling or disposal.
28 c. Household hazardous waste shall be collected, stored and
29 transported in accordance with all applicable standards for such
30 wastes adopted as rules or regulations by the department pursuant to
31 P.L.1970, c.39, or as prescribed under any other applicable federal
32 or State law.
33 d. The department may use a portion of the moneys available in
34 the State Recycling Fund pursuant to paragraph (2) of subsection b.
35 of section 5 of P.L.1981, c.278 (C.13:1E-96) for the purposes of
36 providing to counties technical assistance and training in proper
37 used dry cell battery management.
38 (cf: P.L.2002, c.106, s.6)

39
40 19. This act shall take effect immediately.
41
42

43 STATEMENT
44

45 This bill, the "Electronic Waste Producer Responsibility Act,"
46 shifts the financial responsibility for the collection and recycling of
47 discarded electronic waste from the taxpayers of New Jersey to the
48 producers of electronic equipment.

1 "Electronic equipment" is defined as equipment that is dependent
2 on electric currents electromagnetic fields in order to work properly
3 and contains one or more printed circuit boards, including, but not
4 limited to, computer equipment including cathode ray tubes, display
5 monitors, central processing units, keyboards, printers, computer
6 peripherals; display monitors, and displays; telecommunication
7 equipment including telephones, cellular telephones, facsimile
8 machines, answering machines; small electronic devices and
9 appliances containing one or more circuit boards; video and stereo
10 equipment; televisions, toys, games and educational devices
11 containing one or more printed circuit boards; and major household
12 appliances containing one or more printed circuit boards.

13 "Electronic waste" is defined as electronic equipment which has
14 been discarded, become obsolete, ceased to function, is no longer
15 wanted by its owner, or for any other reason has become available
16 for recycling or disposal.

17 Within 24 months of the effective date of the act, every producer
18 of electronic equipment sold, offered for sale, or offered for
19 promotional purposes in New Jersey must prepare and submit an
20 electronic waste management plan, in writing, to the Department of
21 Environmental Protection (DEP) for implementing a program for
22 financing the environmentally-sound management of discarded and
23 obsolete electronic equipment, including orphan electronic waste
24 and historic electronic waste.

25 A "producer" is defined as any person that, either as of the
26 effective date of the act or thereafter, and regardless of the selling
27 technique used, including by means of distance communication: (1)
28 manufactures and sells electronic equipment under its own brand;
29 (2) manufactures and sells electronic equipment without affixing a
30 brand; (3) resells electronic equipment produced by other suppliers
31 under its own brand and label; or (4) imports or exports electronic
32 equipment into this State.

33 "Historic electronic waste" is defined as electronic equipment
34 which became electronic waste prior to the effective date of this act,
35 the producer of which is a business concern still in business as of
36 the effective date of this act.

37 "Orphan electronic waste" is defined as electronic waste
38 manufactured by or bearing the brand name of a business concern
39 which is no longer in business as of the effective date of this act.

40 Every producer shall be responsible for financing the
41 environmentally-sound management of the electronic waste from its
42 own products, but may execute this obligation through individual
43 financing schemes or in cooperation with other producers.

44 Consumers and electronic equipment end users may be
45 responsible for delivering electronic waste into the collection
46 system, as may be provided for in the producer's electronic waste
47 management plan. Consumers will not be charged to return
48 electronic waste.

1 Any producer that fails to implement a financial responsibility
2 program within the time provided for in the act shall be prohibited
3 from selling its products in this State.

4 Within 6 months of the effective date of the act, every producer
5 must prepare and submit an electronic waste management plan, in
6 writing, to the DEP, which is designed to meet the producer's
7 responsibilities under the act.

8 Each electronic waste management plan submitted by a producer
9 must provide, at a minimum, that the producer will participate in a
10 national collection program for computer products and cathode ray
11 tubes that will be fully implemented in this State no later than 6
12 months following the effective date of the act, and that the
13 collection program will be consistent with the requirements of the
14 act and with the performance standards established by the DEP.

15 The DEP cannot approve an electronic waste management plan
16 unless it finds, in writing, that the plan, or the collection program,
17 will provide:

18 (1) An effective system for financing the collection, treatment,
19 recovery, re-use, and disposition of all electronic equipment sold,
20 offered for sale, or offered for promotional purposes in this State by
21 the producer;

22 (2) A plan for financing that producer's share of orphan
23 electronic waste and historic electronic waste in this State, as
24 determined by the DEP, as of the effective date of the producer's
25 financial obligation;

26 (3) A plan for complying with the labeling, consumer
27 notification, and public education requirements of the act that are
28 necessary to ensure the protection of electronic equipment users,
29 processors and recyclers, and ensure participation in the producer's
30 plan;

31 (4) Documentation of the willingness of all necessary parties
32 involved to implement the proposed plan, and assurances that the
33 plan will comply with all applicable State and local environmental
34 laws and regulations;

35 (5) A description of the performance measures to be used and
36 reported by the producer to the DEP to demonstrate that the
37 collection system is meeting the measures of the collection
38 program's effectiveness required by the DEP; and

39 (6) A description of the alternative or additional actions that will
40 be implemented by the producer to improve the collection, recovery
41 and recycling systems in the event that the collection program
42 targets are not met.

43 The DEP may, in accordance with a fee schedule adopted as a
44 rule or regulation, establish and charge reasonable fees for any of
45 its services, which shall cover the full costs incurred by the DEP for
46 the review of proposed plans and for other costs incurred by the
47 DEP for implementation of the act.

48 Upon a determination by the DEP that a producer is not meeting

1 the performance standards established under the act relating to the
2 reduction or elimination of hazardous materials and to the
3 collection and recycling of electronic waste, the DEP may order the
4 producer to take actions the DEP deems necessary to achieve the
5 performance standards. Any producer that fails to meet any of
6 these requirements within the time frame required will be prohibited
7 from selling electronic equipment in this State.

8 Within 12 months of the effective date of the act, every producer
9 must phase-out the use of lead, mercury, cadmium, hexavalent
10 chromium, brominated flame retardants, and polyvinyl chloride and
11 only offer for sale electronic equipment that contain less harmful
12 alternatives. If a producer provides sufficient demonstration to the
13 DEP that it is technically impossible to use an alternative substance,
14 the DEP may issue a limited term exemption. The exemption will
15 be rescinded when the DEP determines, in writing, that a less
16 harmful alternative for the substance can be used. If the DEP grants
17 an exemption, the DEP may assign a limited amount of time before
18 the exemption expires to ensure that producers are investing in
19 research and development to identify an appropriate less harmful
20 alternative.

21 Within 12 months of the effective date of the act, all electronic
22 equipment sold, offered for sale, or offered for promotional
23 purposes in New Jersey must be clearly marked or labeled, or
24 informational materials must be provided with the new product,
25 which provide consumers and end users with information relating to
26 the following:

27 (1) the hazardous materials contained in the electronic equipment
28 and the parts or sub-units which contain the particular substances;

29 (2) the requirements not to dispose of electronic equipment in
30 sanitary landfill facilities, resource recovery facilities or any other
31 means not approved as part of the producer's electronic waste
32 management plan; and

33 (3) a toll-free phone number and Internet web site address where
34 consumers can obtain information and instructions about the safe
35 collection of the electronic product through the producer's
36 electronic waste management plan.

37 As part of an approved electronic waste management plan, a
38 producer must implement a consumer education plan that will
39 provide consumers with information about:

40 (1) the prohibition on disposal of electronic waste by any means
41 not included as part of the producer' approved electronic waste
42 management plan;

43 (2) the electronic waste return and collection systems available
44 to them;

45 (3) the potential effects on the environment and human health as
46 a result of the presence of hazardous substances contained in
47 electronic equipment and the dangers of improper disposal; and

48 (4) the consumers' and electronic equipment users' roles in

1 contributing to the re-use, recycling, and other forms of electronic
2 waste recovery.

3 Within 24 months following implementation of the producer's
4 electronic waste management plan, each producer must demonstrate
5 to the DEP that it has achieved a level of 85% public awareness of
6 the program for each of its covered product categories through
7 independent public polling. Producers may collectively undertake
8 such a demonstration of public awareness provided that the polling
9 instrument is designed to identify public awareness of a majority of
10 producers' programs or a majority of the electronic equipment types
11 covered by the act. The DEP must approve the design, protocols
12 and implementation plan for the opinion polling.

13 As part of an approved electronic waste management plan, and to
14 facilitate the environmentally-sound management of electronic
15 waste, every producer must demonstrate to the DEP that adequate
16 measures have been taken to provide information to recyclers
17 concerning the producer's electronic equipment. No later than 12
18 months after new electronic equipment enters the market, producers
19 must provide new information to recyclers regarding the end-of-life
20 treatment of the new product relating to disassembly, material
21 content, and safety concerns.

22 This bill is based on substantially similar legislation currently
23 pending in the Rhode Island Legislature.