

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2973

STATE OF NEW JERSEY
216th LEGISLATURE

ADOPTED JUNE 15, 2015

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator RICHARD J. CODEY

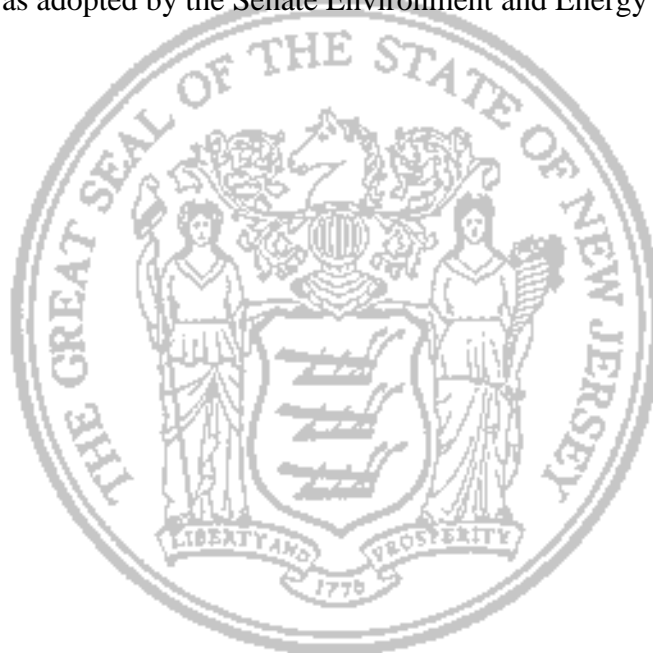
District 27 (Essex and Morris)

SYNOPSIS

Revises electronic waste recycling laws.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Environment and Energy Committee.



1 AN ACT concerning electronic waste recycling, amending and
2 supplementing P.L.2007, c.347, and repealing various parts of
3 the statutory law.

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

7
8 1. Section 1 of P.L.2007, c.347 (C.13:1E-99.94) is amended to
9 read as follows:

10 1. Sections 1 through 21 of P.L.2007, c.347 (C.13:1E-99.94
11 et seq.) and section **3** of P.L.2008, c.130 (C.13:1E-99.96a) 10 of
12 P.L. , c. (C.) (pending before the Legislature as this bill) shall
13 be known and may be cited as the "Electronic Waste Management
14 Act."
15 (cf: P.L.2008, c.130, s.21)

16
17 2. Section 2 of P.L.2007, c.347 (C.13:1E-99.95) is amended to
18 read as follows:

19 2. As used in sections 1 through 21 of P.L.2007,
20 c.347 (C.13:1E-99.94 et seq.) and section **3** of P.L.2008,
21 c.130 (C.13:1E-99.96a) 10 of P.L. , c.
22 (pending before the Legislature as this bill):

23 "Authorized recycler" means a person who: (1) engages in the
24 manual or mechanical separation of covered electronic devices to
25 recover components and commodities contained therein for the
26 purpose of re-use or recycling; or (2) changes the physical or
27 chemical composition of a covered electronic device by
28 deconstructing, size reduction, crushing, cutting, sawing,
29 compacting, shredding, or refining for the purpose of segregating
30 components, and for the purpose of recovering or recycling those
31 components, and who arranges for the transport of those
32 components to an end user.

33 "Brand" means symbols, words, or marks that identify a covered
34 electronic device, rather than any of its components.

35 "Business concern" means any corporation, association, firm,
36 partnership, sole proprietorship, trust or other form of commercial
37 organization. "Business concern" shall not include a small business
38 enterprise.

39 "Cathode ray tube" means a vacuum tube or picture tube used to
40 convert an electronic signal into a visual image.

41 "Computer" means an electronic, magnetic, optical,
42 electrochemical, or other high-speed data processing device
43 performing logical, arithmetic, or storage function, and may include
44 both a computer central processing unit and a monitor, but the term
45 shall not include an automated typewriter or typesetter, a portable

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 handheld calculator, a portable digital assistant, or other similar
2 device.

3 "Consumer" means a person, State entity, school district, or local
4 government unit who purchases a covered electronic device in a
5 transaction that is a retail sale. "Consumer" shall not include any
6 business concern purchasing covered electronic devices.

7 "Covered electronic device" means a desktop or personal
8 computer, computer monitor, portable computer, printer, fax
9 machine, or television sold to a consumer. A "covered electronic
10 device" shall not include any of the following: (1) an electronic
11 device that is a part of a motor vehicle or any component part of a
12 motor vehicle assembled by, or for, a vehicle manufacturer or
13 franchised dealer, including replacement parts for use in a motor
14 vehicle; (2) an electronic device that is functionally or physically a
15 part of a larger piece of equipment designed and intended for use in
16 an industrial, commercial, or medical setting, including diagnostic,
17 monitoring, or control equipment; (3) an electronic device that is
18 contained within a clothes washer, clothes dryer, refrigerator,
19 refrigerator and freezer, microwave oven, conventional oven or
20 range, dishwasher, room air conditioner, dehumidifier, or air
21 purifier; or (4) a telephone of any type unless it contains a video
22 display area greater than four inches measured diagonally.

23 "Department" means the Department of Environmental
24 Protection.

25 "Local government unit" means any county or municipality, or
26 any agency, instrumentality, authority or corporation of any county
27 or municipality, including, but not limited to, sewerage, utilities and
28 improvement authorities, or any other political subdivision of the
29 State.

30 "Manufacturer" means any person: (1) who manufactures or
31 manufactured covered electronic devices under a brand that it owns
32 or owned or is or was licensed to use, other than a license to
33 manufacture covered electronic devices for delivery exclusively to
34 or at the order of the licensor; (2) who sells or sold covered
35 electronic devices manufactured by others under a brand that the
36 seller owns or owned or is or was licensed to use, other than a
37 license to manufacture covered electronic devices for delivery
38 exclusively to or at the order of the licensor; (3) who manufactures
39 or manufactured covered electronic devices without affixing a
40 brand; (4) who manufactures or manufactured covered electronic
41 devices to which the person affixes or affixed a brand that the
42 person neither owns or owned nor is or was licensed to use; (5) for
43 whose account covered electronic devices manufactured outside the
44 United States are or were imported into the United States, provided
45 however, if, at the time such covered electronic devices are or were
46 imported into the United States, another person has registered as the
47 manufacturer of the brand of the covered electronic devices

1 pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-
2 99.102), then paragraph (5) of this definition shall not apply; or (6)
3 a person who assumes the obligations and responsibilities for any
4 manufacturer pursuant to paragraphs (1) through (5) of this
5 definition.

6 "Market share" means a **television** manufacturer's national
7 sales of **televisions** covered electronic devices expressed as a
8 percentage of the total **weight** sales of all **television**
9 manufacturers' national sales of covered electronic devices, based
10 on the best available public data.

11 "Market share in weight" means the total weight of covered
12 electronic devices for which an individual manufacturer is
13 responsible to collect, transport, and recycle, as provided pursuant
14 to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105).

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

22 "Obligation" means: **(1)** the **return** market share in weight,
23 identified for an individual manufacturer, as **determined by the**
24 **department** provided pursuant to subsection a. of section 12 of
25 P.L.2007, c.347 (C.13:1E-99.105) **;** or (2) the market share,
26 identified for an individual television manufacturer, as determined
27 by the department pursuant to subsection c. of section 3 of
28 P.L.2007, c.347 (C.13:1E-99.96)].

29 "Orphan device" means a covered electronic device for which no
30 manufacturer can be identified, or for which the original
31 manufacturer no longer exists.

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

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

39 "Program year" means a full calendar year beginning on or after
40 January 1, 2011.

41 "Purchase" means the taking, by sale, of title in exchange for
42 consideration.

43 "Recycling" means any process by which materials which would
44 otherwise become solid waste are collected, separated or processed
45 and returned to the economic mainstream in the form of raw
46 materials or products. "Recycling" shall not include energy

1 recovery or energy generation by means of incinerating electronic
2 waste whether apart or in combination with other wastes.

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

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

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

11 **["Return share" means the proportion of covered electronic**
12 **devices for which an individual manufacturer is responsible to**
13 **collect, transport, and recycle, as determined by the department**
14 **pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-**
15 **99.105).**

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 P.L.2007,
20 c.347 (C.13:1E-99.105).**】**

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

25 "Small business enterprise" means any business which has its
26 principal place of business in this State, is independently owned and
27 operated, and employs the equivalent of fewer than 50 full-time
28 employees.

29 "Television" means a stand-alone display system containing a
30 cathode ray tube or any other type of display primarily intended to
31 receive video programming via broadcast, having a viewable area
32 greater than four inches measured diagonally, able to adhere to
33 standard consumer video formats and having the capability of
34 selecting different broadcast channels and support sound capability.

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

46 (cf: P.L.2012, c.79, s.11)

1 3. Section 9 of P.L.2007, c.347 (C.13:1E-99.102) is amended
2 to read as follows:

3 9. a. (1) By January 30, ~~2012~~ 2016 , and by each January
4 30 thereafter, the department shall:

5 (a) ~~have completed an auditable, statistically valid sampling of~~
6 covered electronic devices collected from consumers in this State
7 during the previous program year. The sampling information
8 collected shall consist of a list of brands of covered electronic
9 devices and the weight of covered electronic devices that are
10 identified for each brand. The department's sampling shall be
11 conducted in accordance with a procedure established by the
12 department and may be conducted by a third-party organization
13 including an authorized recycler, to be determined by the
14 department. The department may, at its discretion, be present at the
15 sampling and may audit the methodology and the results of the
16 third-party organization. The costs associated with the sampling
17 shall be recovered from the fees paid by manufacturers to the
18 department] determine the market share for each manufacturer of
19 covered electronic devices; and

20 (b) determine the total weight of covered electronic devices,
21 including orphan devices, collected from consumers in this State
22 during the previous program year.

23 (2) ~~If a manufacturer or group of manufacturers conducts its~~
24 own sampling of covered electronic devices, the manufacturer or
25 group of manufacturers shall submit a report to the department
26 annually by March 1, beginning the year after the program is
27 initiated. The report shall include:

28 (a) the results of an auditable, statistically valid sampling of
29 covered electronic devices collected from consumers in this State
30 by the manufacturer or group of manufacturers during the previous
31 program year. The sampling information reported shall consist of a
32 list of brands of covered electronic devices and the weight of
33 covered electronic devices that are identified for each brand; and

34 (b) the total weight of covered electronic devices, including
35 orphan devices, collected from consumers in this State by the
36 manufacturer or group of manufacturers during the previous
37 program year and documentation verifying collection and recycling
38 of such devices.] ~~(Deleted by amendment, P.L. _____, c. _____)~~
39 (pending before the Legislature as this bill)

40 b. By February 1, 2010, and each January 1 thereafter, each
41 manufacturer of covered electronic devices offered for sale for
42 delivery in this State shall register with the department and pay a
43 registration fee of \$5,000. Any manufacturer to whom the
44 department provides notification of a ~~return share and return share~~
45 in weight] market share pursuant to subsection a. of section 12 of
46 P.L.2007, c.347 (C.13:1E-99.105) and who has not previously filed
47 a registration shall file a registration with the department within 30

1 days of receiving such notification from the department. Each
2 manufacturer's registration and renewal shall include a list of all of
3 the manufacturer's brands of covered electronic devices.

4 **【The provisions of this section shall not apply to any**
5 **manufacturer or retailer of televisions offered for sale for delivery**
6 **in this State.】**

7 c. If less than 100 covered electronic devices are sold by a
8 manufacturer in the previous program year, the department shall not
9 require a manufacturer to pay the registration fee or registration
10 renewal fee, as appropriate, in the subsequent year, pursuant to
11 subsection b. of this section.

12 (cf: P.L.2012, c.79, s.4)

13

14 4. Section 10 of P.L.2007, c.347 (C.13:1E-99.103) is amended
15 to read as follows:

16 10. a. **【By June 1, 2010, each】** Each manufacturer to whom the
17 department provides **【, by April 2, 2010, a return】** a market share
18 **【in weight】** that is greater than zero shall submit a plan to the
19 department to collect, transport, and recycle covered electronic
20 devices.

21 b. Each manufacturer to whom the department provides **【, by**
22 **February 15, 2012 or】** by February 15 of any year **【thereafter】**, a
23 **【return share in weight】** market share that is greater than zero shall,
24 by March 15 of that year, comply with the requirements of
25 subsection a. of this section.

26 c. An individual manufacturer submitting a plan pursuant to
27 subsection a. of this section shall collect, transport, and recycle its
28 **【return】** market share in weight.

29 d. A group of manufacturers jointly submitting a plan pursuant
30 to subsection a. of this section shall collect, transport, and recycle
31 the sum of the obligations of each participating manufacturer.

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

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

36 (2) The processes and methods that will be used to recycle
37 recovered covered electronic devices including a description of the
38 recycling processes that will be used, including the name and
39 location of all authorized recyclers to be directly utilized by the
40 plan;

41 (3) The processes and methods that will be used to recycle
42 recovered covered electronic devices which originated from
43 transactions between business concerns;

44 (4) The methods that will be used to provide convenient
45 collection of covered electronic devices, especially used televisions,
46 for residents in cities of the first class and cities of the second class
47 having a population of more than 70,000;

1 (5) 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 **[(5)]** (6) The intention of the registrant to fulfill its obligation
7 through operation of its own plan, either individually, by contract
8 with for-profit or not-for-profit corporations, or local government
9 units, or with other manufacturers.

10 The department shall hold confidential any information obtained
11 pursuant to this subsection when shown by a manufacturer that the
12 information, if made public, would divulge competitive business
13 information, methods or processes entitled to protection as trade
14 secrets of the manufacturer.

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

24 By January 1, 2011, each manufacturer or group of
25 manufacturers required to submit a plan, pursuant to subsection a.
26 of this section, shall commence its covered electronic device
27 recycling program to implement and finance the collection,
28 transportation, and recycling of covered electronic devices **[other**
29 **than televisions]**. The covered electronic device recycling program
30 shall accept all types and all brands of used covered electronic
31 devices, including orphan devices.

32 f. Each manufacturer's plan or plan jointly submitted by a
33 group of manufacturers shall be reviewed to determine its
34 compliance with subsection e. of this section and approved by the
35 department. The department may reject the plan, in whole or in
36 part, and may impose additional requirements as a condition of
37 approval.

38 g. If a manufacturer fails to comply with all the conditions and
39 terms of an approved plan, the manufacturer shall be prohibited
40 from selling or offering for sale in this State a covered electronic
41 device.

42 h. Manufacturers that collect, transport, and recycle covered
43 electronic devices in excess of their obligation may sell credits to
44 another registrant or apply that excess to the following year's
45 recycling obligation; provided that no more than 25 percent of a
46 manufacturer's obligation for any program year may be met with
47 credits generated in a prior program year. No manufacturer or

1 group of manufacturers, as the case may be, may cease
2 implementing its plan required pursuant to subsection e. of this
3 section and approved by the department, during any program year
4 by using credits.

5 i. (Deleted by amendment, P.L.2008, c.130)

6 j. (Deleted by amendment, P.L.2008, c.130)

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

9 l. **【**The provisions of this section shall not apply to any
10 manufacturer or retailer of televisions offered for sale for delivery
11 in this State.**】** (Deleted by amendment, P.L. , c.) (pending
12 before the Legislature as this bill)

13 m. A registered manufacturer shall inform the department, in
14 writing, as soon as it becomes aware that it will cease selling
15 covered electronic devices in the State.

16 (cf: P.L.2012, c.79, s.5)

17

18 5. Section 12 of P.L.2007, c.347 (C.13:1E-99.105) is amended
19 to read as follows:

20 12. a. (1) The department shall determine the **【return share】**
21 market share for each program year for each manufacturer **【**by
22 dividing the weight of covered electronic devices identified for each
23 manufacturer by the total weight of covered electronic devices
24 identified for all manufacturers. For the first program year, the
25 return share of covered electronic devices identified for each
26 manufacturer shall be based on the best available public return
27 share data from the United States, including data from other states,
28 for covered electronic devices from consumers. For the second and
29 each subsequent program year, the return share of covered
30 electronic devices identified for each manufacturer shall be based
31 on the most recent samplings of covered electronic devices
32 conducted in this State pursuant to subsection a. of section 9 of
33 P.L.2007, c.347 (C.13:1E-99.102)**】** based upon publicly available
34 data .

35 (2) The department shall determine the **【return share in weight】**
36 estimated market share in weight for each program year for each
37 manufacturer for whom a **【return share】** market share is determined
38 pursuant to paragraph (1) of this subsection by multiplying the
39 **【return share】** market share for each such manufacturer by the total
40 weight in pounds of covered electronic devices, including orphan
41 devices, collected from consumers the previous program year plus
42 an additional amount expected to be collected in the next program
43 year to be determined by the department based upon retail sales of
44 covered electronic devices in the preceding program year. **【**For the
45 first program year, the total weight in pounds of covered electronic
46 devices shall be based on the best available public weight data from
47 the United States, including data from other states, for covered

1 electronic devices from consumers. For the second and each
2 subsequent program year, the total weight in pounds of covered
3 electronic devices shall be based on the total weight of covered
4 electronic devices, including orphan devices, determined by the
5 department pursuant to subsection a. of section 9 of P.L.2007,
6 c.347 (C.13:1E-99.102).】

7 (3) 【By April 2, 2011, the】 The department shall provide each
8 manufacturer for whom a 【return】 market share is determined
9 pursuant to paragraph (1) of this subsection with its 【return】 market
10 share and 【its return】 an estimate of its market share in weight 【for
11 the first program year. Annually thereafter,】 by February 15 【,
12 beginning in 2013, the department shall provide each manufacturer
13 for whom a return share is determined pursuant to paragraph (1) of
14 this subsection with its return share and its return share_in weight
15 for the second and subsequent program years】 annually for the
16 program year. A manufacturer shall be responsible for its market
17 share in weight for the program year. Should the total weight in
18 pounds collected in any program year exceed the estimated
19 collection amount, each manufacturer shall be responsible for its
20 proportionate share so that the manufacturer's obligation shall be its
21 market share in weight based upon the actual weight of covered
22 electronic devices collected in the program year .

23 b. (Deleted by amendment, P.L.2008, c.130)

24 c. (1) The department shall ensure that 【at least one】
25 sufficient numbers and locations of electronics collection
26 【opportunity is】 opportunities are available in each county
27 throughout the State and in such a manner as to be convenient, to
28 the maximum extent practicable and feasible, to all consumers in
29 the county.

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

33 d. (1) Beginning on January 1, 2011, the department shall
34 maintain a list of registrants and the brands reported in each
35 manufacturer's registration, and post the list on the department's
36 Internet website that is updated at least once a month.

37 (2) The department shall organize and coordinate public
38 education and outreach.

39 e. 【The department shall prepare a plan every three years that:
40 (1) establishes per-capita collection and recycling goals; and (2)
41 identifies any necessary State actions to expand collection
42 opportunities to achieve the per-capita collection and recycling
43 goals. The plan shall be posted on the department's Internet website
44 and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
45 19.1), to the Legislature.】 (Deleted by amendment, P.L. , c.)
46 (pending before the Legislature as this bill)

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

5 The annual report shall include the following:

6 (1) The total weight of covered electronic devices collected in
7 the State the previous calendar year;

8 (2) **【**Progress toward achieving the overall annual total recovery
9 and recycling goals described in the plan prepared pursuant to
10 subsection e. of this section ;

11 (3)**】** A complete listing of all collection sites for covered
12 electronic devices operating in the State in the prior calendar year,
13 the parties that operated them, and the amount of material by weight
14 collected at each site; and

15 **【**(4) An evaluation of the effectiveness of the education and
16 outreach program; and

17 (5) An evaluation of the existing collection and processing
18 infrastructure**】** (3) A complete listing of all authorized recyclers
19 recycling covered electronic devices pursuant to this section and the
20 amount of material by weight recycled annually.

21 g. (Deleted by amendment, P.L.2012, c.79).

22 h. **【**The provisions of this section shall not apply to any
23 manufacturer or retailer of televisions offered for sale for delivery
24 in this State.**】** (Deleted by amendment, P.L. , c.) (pending before
25 the Legislature as this bill)

26 (cf: P.L.2012, c.79, s.6)

27
28 6. Section 17 of P.L.2007, c.347 (C.13:1E-99.110) is amended
29 to read as follows:

30 17. a. (Deleted by amendment, P.L.2012, c.79)

31 b. (Deleted by amendment, P.L.2012, c.79)

32 c. (Deleted by amendment, P.L.2012, c.79)

33 d. The "Electronic Waste Management Act," P.L.2007, c.347
34 (C.13:1E-99.94 et seq.), and any rule or regulation adopted pursuant
35 thereto, shall be enforced by the department and may be enforced
36 by every certified local health agency, as the case may be.
37 Whenever the commissioner finds that a person has violated any
38 provision of P.L.2007, c.347, or any rule or regulation adopted
39 pursuant thereto, the commissioner may:

40 (1) issue an order, in accordance with subsection e. of this
41 section, requiring the person found to be in violation to comply;

42 (2) bring a civil action in accordance with subsection f. of this
43 section;

44 (3) levy a civil administrative penalty in accordance with
45 subsection g. of this section; or

46 (4) bring an action for a civil penalty in accordance with
47 subsection h. of this section.

1 e. Whenever, on the basis of available information, the
2 commissioner finds that a person has violated any provision of
3 P.L.2007, c.347, or any rule or regulation adopted thereto, the
4 commissioner may issue an administrative enforcement order: (1)
5 specifying the provision or provisions of P.L.2007, c.347, or the
6 rule or regulation, of which the person is in violation; (2) citing the
7 action which constituted the violation; (3) requiring compliance
8 with the provision or provisions violated; and (4) providing notice
9 to the person of the right to a hearing on the matters contained in
10 the administrative enforcement order. The ordered party shall have
11 35 days from receipt of the order within which to deliver to the
12 commissioner a written request for a hearing. An order shall be
13 effective upon receipt and any person to whom such order is
14 directed shall comply with the order immediately. A request for
15 hearing shall not automatically stay the effect of the order.

16 f. The commissioner is authorized to, and a certified local
17 health agency may, institute a civil action in Superior Court for
18 appropriate relief from any violation of the provisions of P.L.2007,
19 c.347, or any rule or regulation adopted thereof. Such relief may
20 include, singly or in combination:

- 21 (1) a temporary or permanent injunction;
- 22 (2) recovery of reasonable costs of any investigation or
23 inspection which led to the discovery of the violation, and for the
24 reasonable costs of preparing and bringing a civil action
25 commenced under this subsection;
- 26 (3) recovery of reasonable costs incurred by the State in
27 removing, correcting, or terminating the adverse effects resulting
28 from any violation of the provisions of P.L.2007, c.347, or any rule
29 or regulation adopted pursuant thereto, for which a civil action has
30 been commenced and brought under this subsection;
- 31 (4) recovery of compensatory damages caused by a violation of
32 the provisions of P.L.2007, c.347, or any rule or regulation adopted,
33 for which a civil action has been commenced and brought under this
34 subsection. Assessments under this subsection shall be paid to the
35 State Treasurer, or to the certified local health agency, as the case
36 may be, except that compensatory damages may be paid by specific
37 order of the court to any persons who have been aggrieved by the
38 violation. If a proceeding is instituted by a certified local health
39 agency, notice thereof shall be served upon the commissioner in the
40 same manner as if the commissioner were a named party to the
41 action or proceeding. The department may intervene as a matter of
42 right in any proceeding brought by a certified local health agency.

43 g. (1) Except as authorized otherwise in paragraph (2) of this
44 subsection, the commissioner is authorized to assess a civil
45 administrative penalty of not less than \$500 nor more than \$1,000
46 for each violation, provided that each day during which the

1 violation continues shall constitute an additional, separate and
2 distinct offense.

3 (2) For any violation of section ~~3,~~ 7, 8, 10 or 11 of P.L.2007,
4 c.347 (~~C.13:1E-99.96,~~ C.13:1E-99.100, C.13:1E-99.101,
5 C.13:1E-99.103, or C.13:1E-99.104) or subsection a. or b. of
6 section 6, subsection b. of section 9, or subsection a. of section 15
7 of P.L.2007, c.347 (C.13:1E-99.99, C.13:1E-99.102, C.13:1E-
8 99.108), the commissioner is authorized to assess a civil
9 administrative penalty not to exceed \$25,000 for each day during
10 which a violation continues. In assessing a civil administrative
11 penalty, the commissioner shall consider the severity of the
12 violation, the measures taken to prevent further violations, and
13 whether the penalty will maintain an appropriate deterrent.

14 Prior to assessment of a civil administrative penalty, the person
15 committing the violation shall be notified by certified mail or
16 personal service that the penalty is being assessed. The notice shall
17 identify the section of the statute, rule, regulation, or order violated;
18 recite the facts alleged to constitute a violation; state the basis for
19 the amount of the civil administrative penalties to be assessed; and
20 affirm the rights of the alleged violator to a hearing. The ordered
21 party shall have 35 days from receipt of the notice within which to
22 deliver to the commissioner a written request for a hearing. After
23 the hearing and upon finding that a violation has occurred, the
24 commissioner may issue a final order after assessing the amount of
25 the fine specified in the notice. If no hearing is requested, the
26 notice shall become a final order after the expiration of the 35-day
27 period. Payment of the assessment is due when a final order is
28 issued or the notice becomes a final order. The authority to levy an
29 administrative order is in addition to all other enforcement
30 provisions in P.L.2007, c.347, and the payment of any assessment
31 shall not be deemed to affect the availability of any other
32 enforcement provisions in connection with the violation for which
33 the assessment is levied. The department may compromise any
34 civil administrative penalty assessed under this section in an
35 amount and with conditions the department determines appropriate.

36 h. A person who violates any provision of P.L.2007, c.347, or
37 any rule or regulation adopted pursuant thereto, or an administrative
38 order issued pursuant to subsection e. of this section, or a court
39 order issued pursuant to subsection f. of this section, or who fails to
40 pay a civil administrative penalty in full pursuant to subsection g. of
41 this section, or who knowingly makes any false or misleading
42 statement on any application, record, report, or other document
43 required to be submitted to the department, shall be subject, upon
44 order of a court, to a civil penalty not to exceed \$25,000 per day of
45 the violation, and each day during which the violation continues
46 shall constitute an additional, separate, and distinct offense. Any
47 civil penalty imposed pursuant to this subsection may be collected

1 with costs in a summary proceeding pursuant to the "Penalty
2 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
3 or may be collected in a civil action commenced by a certified local
4 health agency, or the commissioner, as the case may be. In addition
5 to any penalties, costs or interest charges, the Superior Court, or the
6 municipal court as the case may be, may assess against the violator
7 the amount of economic benefit accruing to the violator from the
8 violation.

9 i. As used in this section, "certified local health agency" shall
10 have the same meaning as set forth in section 3 of P.L.1977, c.443
11 (C.26:3A2-23).

12 j. Violations of the act include, but are not limited to:

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

15 (2) the use of a qualified collection program to recycle covered
16 electronic devices not discarded within the State, or region as
17 provided in section 19 of P.L.2007, c.347 (C.13:1E-99.112);

18 (3) the knowing failure to report or accurately report any data
19 required to be reported to the department pursuant to this act;

20 (4) the non-payment of any fee required pursuant to this act;

21 (5) failure to register **【**, pursuant to subsection a. of section 3 of
22 P.L.2007, c.347 (C.13:1E-99.96) or**】** pursuant to subsection b. of
23 section 9 of P.L.2007, c.347 (C.13:1E-99.102);

24 (6) failure to submit or implement a plan pursuant to section **【3**
25 or**】** 10 of P.L.2007, c.347 (**【**C.13:1E-99.96 or**】** C.13:1E-99.103);
26 and

27 (7) failure to comply with any provision of section 16 of
28 P.L.2007, c.347 (C.13:1E-99.109).

29 (cf: P.L.2012, c.79, s.9)

30

31 7. Section 18 of P.L.2007, c.347 (C.13:1E-99.111) is amended
32 to read as follows:

33 18. a. (1) The department shall adopt, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), rules and regulations as are necessary to effectuate the
36 purposes of P.L.2007, c.347 (C.13:1E-99.94 et al.) **【**and section 3 of
37 P.L.2008, c.130 (C.13:1E-99.96a)**】** and section 10 of P.L. _____,
38 c. (C.) pending before the Legislature as this bill) .

39 (2) The department shall adopt rules and regulations, in
40 accordance with the provisions of section 8 of P.L.2007, c.347
41 (C.13:1E-99.101), that prohibit a new covered electronic device
42 from being sold or offered for sale in this State if the covered
43 electronic device is prohibited from being sold or offered for sale in
44 the European Union on and after its date of manufacture, to the
45 extent that Directive 2002/95/EC, adopted by the European
46 Parliament and the Council of the European Union on January 27,
47 2003, and as amended thereafter by the Commission of European

1 Communities, prohibits that sale due to the presence of certain
2 heavy metals.

3 (a) The department shall exclude from the rules and regulations
4 the sale of a new covered electronic device that contains a substance
5 that is used to comply with the consumer, health, or safety
6 requirements that are required by the Underwriters Laboratories or
7 federal or State law.

8 (b) In adopting rules and regulations pursuant to this subsection,
9 the department may not require the manufacture or sale of a new
10 covered electronic device that is different than, or otherwise not
11 prohibited by, the European Union under Directive 2002/95/EC,
12 adopted by the European Parliament and the Council of the
13 European Union on January 27, 2003. The department shall use, in
14 addition to any other information deemed relevant by the
15 department, the published decisions of the Technical Adaptation
16 Committee and European Union member states that interpret the
17 requirements of Directive 2002/95/EC.

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

25 (cf: P.L.2008, c.130, s.15)

26

27 8. Section 19 of P.L.2007, c.347 (C.13:1E-99.112) is amended
28 to read as follows:

29 19. The department is authorized to participate in the
30 establishment and implementation of a regional, multi-state
31 organization or compact that is consistent with the requirements of
32 P.L.2007, c.347 (C.13:1E-99.94 et al.) **【and section 3 of P.L.2008,**
33 **c.130 (C.13:1E-99.96a)】** and section 10 of P.L. , c. (C.)
34 (pending before the Legislature as this bill).

35 (cf: P.L.2008, c.130, s.16)

36

37 9. Section 20 of P.L.2007, c.347 (C.13:1E-99.113) is amended
38 to read as follows:

39 20. The provisions of P.L.2007, c.347 (C.13:1E-99.94 et al.)
40 **【and section 3 of P.L.2008, c.130 (C.13:1E-99.96a)】** and section 10
41 of P.L. , c. (C.) (pending before the Legislature as this bill) are
42 intended to govern all aspects of the collection and recycling of
43 covered electronic devices as those terms are defined in section 2 of
44 P.L.2007, c.347 (C.13:1E-99.95). Upon a determination by the
45 Department of Environmental Protection of an equivalent national
46 program to collect or recycle covered electronic devices, the
47 Commissioner of Environmental Protection shall notify, in writing,

1 the Governor, the President of the Senate and the Speaker of the
2 General Assembly, and the members of the Senate Environment
3 Committee and the Assembly Environment and Solid Waste
4 Committee, or their successors, of this determination.

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

8 The department shall provide notice in the New Jersey Register
9 of any determination made pursuant to this section, and shall take
10 any administrative action necessary in order to implement the
11 national program.

12 (cf: P.L.2008, c.130, s.17)

13

14 10. (New section) a. By February 1, 2016, and annually
15 thereafter, the operator of every collection location identified in
16 each manufacturer's plan submitted pursuant to section 10 of
17 P.L.2007, c.347 (C.13:1E-99.103) shall identify the total weight of
18 covered electronic devices collected in the prior calendar year at
19 each collection location.

20 b. By February 1, 2016, and annually thereafter, every
21 authorized recycler identified in each manufacturer's plan submitted
22 pursuant to section 10 of P.L.2007, c.347 (C.13:1E-99.103) shall
23 identify the total weight of covered electronic devices delivered in
24 the prior calendar year for recycling at the authorized recycler.

25

26 11. Section 3 of P.L.2007, c.347 (C.13:1E-99.96) and section 3
27 of P.L.2008, c.130 (C.13:1E-99.96a) are repealed.

28

29 12. This act shall take effect immediately.