

CHAPTER 87

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

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

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

C.13:1E-99.94 Short title.

1. P.L.2007, c.347 (C.13:1E-99.94 et seq.) shall be known and may be cited as the "Electronic Waste Management Act."

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

C.13:1E-99.95 Definitions relative to electronic waste management.

2. As used in P.L.2007, c.347 (C.13:1E-99.94 et seq.):

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

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

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

"Cathode ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image, and includes any cathode ray tube that is broken, damaged, or separated from its host television or other device.

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

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

"Covered electronic device" means a desktop or personal computer, computer monitor, portable computer, desktop printer, desktop fax machine, or television sold to a consumer. A "covered electronic device" shall not include any of the following: (1) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; (2) an electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment; (3) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner,

dehumidifier, or air purifier; or (4) any handheld device used to access commercial mobile data service or commercial mobile radio service as such services are defined pursuant to 47 C.F.R. s.20.3.

"Department" means the Department of Environmental Protection.

"Group plan administrator" means any person who enters into a contract with two or more manufacturers to collect, transport, and recycle the total of those manufacturers' market share in weight obligations pursuant to P.L.2007, c.347 (C.13:1E-99.94 et seq.).

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

"Manufacturer" means any person: (1) who manufactures or manufactured covered electronic devices under a brand that it owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor; (2) who sells or sold covered electronic devices manufactured by others under a brand that the seller owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor; (3) who manufactures or manufactured covered electronic devices without affixing a brand; (4) who manufactures or manufactured covered electronic devices to which the person affixes or affixed a brand that the person neither owns or owned nor is or was licensed to use; (5) for whose account covered electronic devices manufactured outside the United States are or were imported into the United States, provided however, if, at the time such covered electronic devices are or were imported into the United States, another person has registered as the manufacturer of the brand of the covered electronic devices pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-99.102), then paragraph (5) of this definition shall not apply; or (6) a person who assumes the obligations and responsibilities for any manufacturer pursuant to paragraphs (1) through (5) of this definition.

"Market share" means a manufacturer's national sales of covered electronic devices expressed as a percentage of the total sales of all manufacturers' national sales of covered electronic devices, based on the best available public data.

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

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

"Obligation" means the market share in weight, identified for an individual manufacturer, as provided pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105).

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

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

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

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

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

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

"Registrant" means a manufacturer of covered electronic devices that is in full compliance with the requirements of P.L.2007, c.347 (C.13:1E-99.94 et seq.).

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

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

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

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

"Statewide standard program" means the program to collect, transport, and recycle covered electronic devices established by the State pursuant to section 6 of P.L.2016, c.87 (C.13:1E-99.105a).

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

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

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

C.13:1E-99.102 Duties of department, registration fee.

9. a. (1) (a) By January 30, 2016, and by each January 30 thereafter, the department shall determine the market share for each manufacturer of covered electronic devices.

(b) By April 1, 2016, and by each April 1 thereafter, the department shall determine the total weight of covered electronic devices, including orphan devices, collected from consumers in this State during the previous program year.

(2) (Deleted by amendment, P.L.2016, c.87)

b. By February 1, 2010, and each January 1 thereafter, each manufacturer of covered electronic devices offered for sale for delivery in this State shall register with the department

and pay a registration fee of \$5,000. Any manufacturer to whom the department provides notification of a market share pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105) and who has not previously filed a registration shall file a registration with the department within 30 days of receiving such notification from the department. Each manufacturer's registration and renewal shall include a list of all of the manufacturer's brands of covered electronic devices.

c. If a manufacturer's market share is .01 percent or less in the previous program year, the department shall not require a manufacturer to pay the registration fee or registration renewal fee, as appropriate, or otherwise comply with the requirements of section 10 of P.L.2007, c.347 (C.13:1E-99.103) in the subsequent year, pursuant to subsection b. of this section.

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

C.13:1E-99.103 Requirements for certain manufacturers; plans.

10. a. Each manufacturer to whom the department provides a market share that is greater than .01 percent of the total shall submit a plan to the department to collect, transport, and recycle covered electronic devices. If the department establishes a Statewide standard program pursuant to section 6 of P.L.2016, c.87 (C.13:1E-99.105a), each manufacturer or group of manufacturers to whom the department provides a market share that is greater than 10 percent of the total may (1) submit a plan to the department to collect, transport, and recycle covered electronic devices, or (2) participate in the Statewide standard program; and each manufacturer to whom the department provides a market share that is 10 percent or less shall fulfill its market share in weight obligation by participating in the Statewide standard program.

b. Each manufacturer to whom the department provides by February 15 of any year, a market share that is greater than .01 percent of the total shall, by April 15 of that year, comply with the requirements of subsection a. of this section.

c. An individual manufacturer submitting a plan pursuant to subsection a. of this section shall collect, transport, and recycle its market share in weight.

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

e. Every plan shall include:

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

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

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

(4) The methods that will be used to provide convenient collection of covered electronic devices, especially used televisions, for residents in densely populated areas of the State;

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

(6) The intention of the registrant to fulfill its obligation through operation of its own plan, either individually, by contract with for-profit or not-for-profit entities, a group plan administrator, or local government units, or with other manufacturers.

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

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

By January 1, 2011, each manufacturer or group of manufacturers required to submit a plan, pursuant to subsection a. of this section, shall commence its covered electronic device recycling program to implement and finance the collection, transportation, and recycling of covered electronic devices. The covered electronic device recycling program shall accept all types and all brands of used covered electronic devices, including orphan devices.

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

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

h. Manufacturers that collect, transport, and recycle covered electronic devices in excess of their obligation may sell credits to another registrant or apply that excess to the following year's recycling obligation; provided that no more than 25 percent of a manufacturer's obligation for any program year may be met with credits generated in a prior program year. No manufacturer or group of manufacturers, as the case may be, may cease implementing its plan required pursuant to subsection e. of this section and approved by the department, during any program year by using credits.

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

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

k. Nothing in P.L.2007, c.347 (C.13:1E-99.94 et seq.) is intended to exempt any person from liability the person would otherwise have under applicable law.

l. (Deleted by amendment, P.L.2016, c.87)

m. The department may allow a group plan administrator to fulfill a manufacturer's responsibilities on its behalf under this section, including registration, payment of registration fees, and submission of plans. If a group plan administrator collects, transports, and recycles covered electronic devices in excess of the total combined market share in weight obligation for the manufacturers under contract with that group plan administrator, the group plan administrator may sell credits, or apply credits to the following year's obligation, as provided in subsection h. of this section. The provisions of this subsection shall not relieve any manufacturer of its obligations under P.L.2007, c.347 (C.13:1E-99.94 et seq.). If a group plan administrator fails to fulfill a manufacturer's responsibilities on its behalf, the department may take enforcement action against the manufacturer.

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

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

C.13:1E-99.105 Determination of market share; annual report.

12. a. (1) The department shall determine the market share for each program year for each manufacturer based upon publicly available data.

(2) The department shall determine the estimated market share in weight obligation for each program year for each manufacturer for whom a market share is determined pursuant to paragraph (1) of this subsection by multiplying the market share for each such manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from consumers the previous program year and considering the amount expected to be collected in the next program year to be determined by the department based upon actual collection amounts of covered electronic devices in the preceding program year.

(3) The department shall provide each manufacturer for whom a market share is determined pursuant to paragraph (1) of this subsection with its market share and an estimate of its market share in weight by February 15 annually for the next program year. A manufacturer shall be responsible for its market share in weight for the program year. The department may adjust each manufacturer's market share in weight obligation based upon the total weight in pounds actually collected in any program year and each manufacturer shall be responsible for its proportionate share so that the manufacturer's obligation shall be its market share in weight based upon the actual weight of covered electronic devices collected in the prior program year.

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

c. (1) The department shall ensure that sufficient numbers and locations of electronics collection opportunities are available in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in the county as determined by the department.

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

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

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

e. (Deleted by amendment, P.L.2016, c.87)

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

The annual report shall include the following:

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

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

(3) A complete listing of all authorized recyclers recycling covered electronic devices and the amount of material by weight recycled annually.

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

h. (Deleted by amendment, P.L.2016, c.87)

C.13:1E-99.105a Standard program for collection, transportation, recycling of covered electronic devices from consumers.

6. a. The department may establish a Statewide standard program for the collection, transportation, and recycling of covered electronic devices from consumers. The department may enter into contracts for the services required for the proper collection, transportation, and recycling of covered electronic devices. At a minimum, the Statewide standard program shall:

(1) designate collection locations throughout the State such that at least 90 percent of consumers are located within no more than 15 miles of a collection location;

(2) provide that all designated collection locations accept all covered electronic devices free of charge; and

(3) require that all designated collection locations, transporters, and authorized recyclers comply with State standards for the management of Class D universal waste as provided in N.J.A.C.7:26A-7.1 et seq. or any subsequently adopted standards for the management of covered electronic devices.

b. A manufacturer may meet its market share in weight obligation by participating in the Statewide standard program established pursuant to this section.

c. A manufacturer that participates in the Statewide standard program pursuant to this section shall pay a per pound rate established by the department for the collection, transportation, recycling, public education, and administrative costs of the program based upon the manufacturer's market share in weight obligation. In the first year of operation of the Statewide standard program, the department may bill each participating manufacturer by January 30, and each manufacturer participating in the program shall pay 25 percent of their market share in weight obligation based upon the per pound rate established. Subsequently, the department may bill each participating manufacturer on a quarterly basis at the end of each quarter of operation of the program, based upon the costs incurred during that quarter.

d. The department, or the administrator for the Statewide standard program designated by the department, shall reimburse a local government unit that collects or transports covered electronic devices and that is not otherwise identified as a collection location in the Statewide standard program, at the per pound rate established by the program for those services, for the costs incurred in the collection and transportation of covered electronic devices to a collection location designated under the Statewide standard program under the following conditions:

(1) the local government unit stores and transports the covered electronic devices in a manner consistent with State standard program requirements; and

(2) the local government unit complies with recordkeeping and invoicing requirements established by the department.

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

C.13:1E-99.110 Enforcement; violations, penalties.

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

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

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

d. The "Electronic Waste Management Act," P.L.2007, c.347 (C.13:1E-99.94 et seq.), and any rule or regulation adopted pursuant thereto, shall be enforced by the department and

may be enforced by every certified local health agency, as the case may be. Whenever the commissioner finds that a person has violated any provision of P.L.2007, c.347 (C.13:1E-99.94 et seq.) , or any rule or regulation adopted pursuant thereto, the commissioner may:

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

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

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

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

e. Whenever, on the basis of available information, the commissioner finds that a person has violated any provision of P.L.2007, c.347 (C.13:1E-99.94 et seq.) , or any rule or regulation adopted thereto, the commissioner may issue an administrative enforcement order:

(1) specifying the provision or provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) , or the rule or regulation, of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; and (4) providing notice to the person of the right to a hearing on the matters contained in the administrative enforcement order. The ordered party shall have 35 days from receipt of the order within which to deliver to the commissioner a written request for a hearing. An order shall be effective upon receipt and any person to whom such order is directed shall comply with the order immediately. A request for hearing shall not automatically stay the effect of the order.

f. The commissioner is authorized to, and a certified local health agency may, institute a civil action in Superior Court for appropriate relief from any violation of the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) , or any rule or regulation adopted thereof. Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;

(2) recovery of reasonable costs of any investigation or inspection which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;

(3) recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) , or any rule or regulation adopted pursuant thereto, for which a civil action has been commenced and brought under this subsection;

(4) recovery of compensatory damages caused by a violation of the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) , or any rule or regulation adopted, for which a civil action has been commenced and brought under this subsection. Assessments under this subsection shall be paid to the State Treasurer, or to the certified local health agency, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation. If a proceeding is instituted by a certified local health agency, notice thereof shall be served upon the commissioner in the same manner as if the commissioner were a named party to the action or proceeding. The department may intervene as a matter of right in any proceeding brought by a certified local health agency.

g. (1) Except as authorized otherwise in paragraph (2) of this subsection, the commissioner is authorized to assess a civil administrative penalty of not less than \$500 nor more than \$1,000 for each violation, provided that each day during which the violation continues shall constitute an additional, separate and distinct offense.

(2) For any violation of section 7, 8, 10 or 11 of P.L.2007, c.347 (C.13:1E-99.100, C.13:1E-99.101, C.13:1E-99.103, or C.13:1E-99.104) or subsection a. or b. of section 6,

subsection b. of section 9, or subsection a. of section 15 of P.L.2007, c.347 (C.13:1E-99.99, C.13:1E-99.102, C.13:1E-99.108), the commissioner is authorized to assess a civil administrative penalty not to exceed \$25,000 for each day during which a violation continues. In assessing a civil administrative penalty, the commissioner shall consider the severity of the violation, the measures taken to prevent further violations, and whether the penalty will maintain an appropriate deterrent.

Prior to assessment of a civil administrative penalty, the person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, rule, regulation, or order violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil administrative penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in P.L.2007, c.347 (C.13:1E-99.94 et seq.) , and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate.

h. A person who violates any provision of P.L.2007, c.347 (C.13:1E-99.94 et seq.) , or any rule or regulation adopted pursuant thereto, or an administrative order issued pursuant to subsection e. of this section, or a court order issued pursuant to subsection f. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection g. of this section, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or may be collected in a civil action commenced by a certified local health agency, or the commissioner, as the case may be. In addition to any penalties, costs or interest charges, the Superior Court, or the municipal court as the case may be, may assess against the violator the amount of economic benefit accruing to the violator from the violation.

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

j. Violations of P.L.2007, c.347 (C.13:1E-99.94 et seq.) include, but are not limited to:

(1) the sale of a new covered electronic device by any person that is not in full compliance with the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.);

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

(3) the knowing failure to report or accurately report any data required to be reported to the department pursuant to P.L.2007, c.347 (C.13:1E-99.94 et seq.);

(4) the non-payment of any fee required pursuant to P.L.2007, c.347 (C.13:1E-99.94 et seq.);

(5) failure to register pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-99.102);

(6) failure to submit or implement a plan pursuant to section 10 of P.L.2007, c.347 (C.13:1E-99.103); and

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

k. All penalties collected by the department pursuant to P.L.2007, c.347 (C.13:1E-99.94 et seq.) shall be appropriated and allocated annually to the "Electronic Waste Management Fund" established pursuant to section 11 of P.L.2016, c.87 (C.13:1E-99.105e) for administration and enforcement of the "Electronic Waste Management Act."

C.13:1E-99.105b Registration of authorized recycler; fee.

8. a. Except as provided in subsection d. of this section, by January 1, 2016 and each January 1 thereafter, each authorized recycler that accepts covered electronic devices from a consumer shall register with the department and pay a registration fee of \$15,000.

b. The department shall use the fee to cover the costs of the development, implementation, and review of recordkeeping and data systems required of authorized recyclers, technical advice provided by the department to authorized recyclers, the review and analysis of reports required to be submitted by authorized recyclers, monitoring the disposition of recyclable materials recovered during the recycling of covered electronic devices, and any other technical analysis performed by the department pursuant to P.L.2007, c.347 (C.13:1E-99.94 et seq.).

c. Any authorized recycler that fails to register and pay the fee required pursuant to this section, or otherwise comply with the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.), may not participate in the Statewide standard program established pursuant to section 6 of P.L.2016, c.87 (C.13:1E-99.105a), or any manufacturer's plan for the collection, transportation, and recycling of covered electronic devices approved by the department pursuant to section 10 of P.L.2007, c.347 (C.13:1E-99.103).

d. An authorized recycler that has been granted a general approval as a Class D recycling center by the department pursuant to the provisions of N.J.A.C.7:26A-3.1 et seq. and is in compliance with that approval, including the payment of the required fees, shall not be required to register and pay the fee imposed pursuant to subsection a. of this section.

C.13:1E-99.105c Information required from operator of collection location.

9. a. By February 1, 2016, and semiannually thereafter, the operator of every collection location identified in each manufacturer's plan submitted pursuant to section 10 of P.L.2007, c.347 (C.13:1E-99.103), any local government unit that collects covered electronic devices, and any collection location that collects covered electronic devices as a part of the Statewide standard program established pursuant to section 6 of P.L.2016, c.87 (C.13:1E-99.105a), shall identify:

(1) the total weight or volume of covered electronic devices collected in the prior six-month period at each collection location; and

(2) the date, time, and volume of covered electronic devices transported from the collection location, and the name and identifying information of the authorized recycler transporting the covered electronic devices.

On February 1 and August 1 of each year for the period ending on January 1 and July 1, as appropriate, the information shall be submitted to the department on forms and in a manner prescribed by the department.

b. By February 1, 2016, and semiannually thereafter, every authorized recycler identified in each manufacturer's plan submitted pursuant to section 10 of P.L.2007, c.347 (C.13:1E-99.103), and any authorized recycler that operates as a part of the Statewide standard program established pursuant to section 6 of P.L.2016, c.87 (C.13:1E-99.105a), shall identify:

(1) the address of each collection location that provides covered electronic devices to the authorized recycler and the total weight of covered electronic devices delivered or collected from each collection location;

(2) the weight of each type of covered electronic device delivered or collected from each collection location;

(3) the address of any facility where covered electronic devices are handled; and

(4) the disposition of the covered electronic devices or their components, including the market for all materials recycled or recovered from covered electronic devices, and the weight and disposition of all materials that are not recycled and are disposed of as residue from all covered electronic devices.

On February 1 and August 1 of each year for the period ending on January 1 and July 1, as appropriate, the information shall be submitted to the department on forms and in a manner prescribed by the department.

c. By February 1, 2016, and semiannually thereafter, each manufacturer or group plan administrator on behalf of a manufacturer, shall report to the department its progress towards achieving the manufacturer's market share in weight obligation on forms and in a manner prescribed by the department.

C.13:1E-99.105d Noncompliance; fee.

10. A manufacturer that fails to collect, transport, or recycle its required market share in weight obligation shall be assessed a fee equivalent to \$0.50 per pound times its market share in weight obligation. A fee assessed pursuant to this section shall be appropriated and allocated annually to the "Electronic Waste Management Fund" established pursuant to section 11 of P.L.2016, c.87 (C.13:1E-99.105e). The assessment of the fee pursuant to this section shall be in addition to any other enforcement action that may be taken by the department for a violation of P.L.2007, c.347 (C.13:1E-99.94 et seq.).

C.13:1E-99.105e "Electronic Waste Management Fund."

11. a. There is created in the Department of Environmental Protection, a special non-lapsing fund to be known as the "Electronic Waste Management Fund." The monies in the fund are dedicated and shall be used only to carry out the purposes enumerated in subsection b. of this section. The fund shall be credited with all revenues collected and deposited in the fund pursuant to section 17 of P.L.2007, c.347 (C.13:1E-99.110), and sections 6, 8, and 10 of P.L.2016, c.87 (C.13:1E-99-105a, C.13:1E-99.105b, and C.13:1E-99.105d), all interest and other income received from the investment of monies in the fund, and any monies which, from time to time, may otherwise become available for the purposes of the fund. Pending the use thereof pursuant to the provisions of subsection b. of this section, the monies deposited in the fund shall be held in interest-bearing accounts in public depositories, as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on

monies deposited into the fund shall be credited to the fund for use as set forth in subsection b. of this section for other monies in the fund.

b. Monies deposited in the "Electronic Waste Management Fund" shall be used only for:

- (1) the administration and enforcement of P.L.2007, c.347 (C.13:1E-99.94 et seq.); and
- (2) any costs associated with the collection, transportation, and recycling of covered electronic devices pursuant to section 6 of P.L.2016, c.87 (C.13:1E-99.105a); and
- (3) the proper removal and disposition of covered electronic devices that have been improperly abandoned, discarded, or otherwise disposed of on the lands or waters of the State.

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

C.13:1E-99.111 Rules, regulations; use of fees.

18. a. (1) The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as are necessary to effectuate the purposes of P.L.2007, c.347 (C.13:1E-99.94 et seq.).

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

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

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

b. The department may, in accordance with a fee schedule adopted as a rule or regulation pursuant to the provisions of the "Administrative Procedure Act," establish and charge reasonable fees for any of the services to be performed in connection with P.L.2007, c.347 (C.13:1E-99.94 et seq.), which shall cover the full costs incurred by the department for the review of plans and for other costs incurred by the department for implementation of P.L.2007, c.347 (C.13:1E-99.94 et seq.).

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

C.13:1E-99.112 Establishment of organizations, compacts.

19. The department is authorized to participate in the establishment and implementation of a regional, multi-state organization or compact that is consistent with the requirements of P.L.2007, c.347 (C.13:1E-99.94 et seq.).

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

C.13:1E-99.113 Intent of act; implementation of national program.

20. The provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) are intended to govern all aspects of the collection and recycling of covered electronic devices as those terms are defined in section 2 of P.L.2007, c.347 (C.13:1E-99.95). Upon a determination by the Department of Environmental Protection of an equivalent national program to collect or recycle covered electronic devices, the Commissioner of Environmental Protection shall notify, in writing, the Governor, the President of the Senate and the Speaker of the General Assembly, and the members of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee, or their successors, of this determination.

The provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) shall expire 60 days after the date of the notification required pursuant to this section or within the timeframe provided by federal law, as appropriate.

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

15. Section 21 of P.L.2007, c.347 (C.13:1E-99.114) is amended to read as follows:

C.13:1E-99.114 Report posted on website, submitted to Legislature.

21. By January 1, 2014, the department shall prepare a report, which shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, assessing the success or failure of the electronic waste management system implemented pursuant to the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) relative to the statutory management of covered electronic devices in other states, including jurisdictions that have adopted a producer responsibility model versus those that have adopted an advance recovery fee approach, or both, with respect to the recycling of used televisions and other covered electronic devices.

Repealer.

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

17. This act shall take effect immediately.

Approved January 9, 2017.