

1 S.77

2 Introduced by Senators Lyons, Hartwell and MacDonald

3 Referred to Committee on

4 Date: February 10, 2009

5 Subject: Conservation; electronics; e-waste

6 Statement of purpose: This bill proposes to require manufacturers of certain
7 electronics to implement and fund a system for the collection and recycling of
8 electronic devices.

9 ~~An act relating to the disposal of electronic waste~~
An act relating to the recycling and disposal of electronic waste

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 ~~Sec. 1. LEGISLATIVE FINDINGS~~

12 The general assembly finds:

13 (1) According to the U.S. Environmental Protection Agency, discarded
14 computers, computer monitors, televisions, and other consumer electronics—
15 collectively referred to as e-waste—are the fastest growing portion of the waste
16 stream growing by approximately eight percent from 2004 to 2005.

17 (2) Televisions and computers are prevalent in modern society and
18 contribute significantly to the waste generated in Vermont.

1 ~~(3) Televisions, computers, laptop computers, and computer monitors~~
2 ~~contain lead, mercury, and other hazardous substances that pose a threat to~~
3 ~~human health and the environment if improperly disposed of at the end of the~~
4 ~~useful life of these products.~~

5 (4) The state of Vermont has committed to providing its citizens with a
6 safe and healthy environment and has actively undertaken efforts such as
7 mercury reduction programs to reduce the potential for contamination.

8 (5) The recycling of televisions and computers protects public health
9 and the environment by reducing the potential for the release of heavy metals
10 and mercury from landfills into the environment, consistent with other state
11 initiatives, and also conserving valuable landfill space.

12 (6) The establishment of a system to provide for the collection and
13 recycling of electronic devices in Vermont is consistent with the state's duty to
14 protect the health, safety, and welfare of its citizens; maintain and enhance the
15 quality of the environment; conserve natural resources; prevent pollution of air,
16 water, and land; and stimulate economic growth.

17 Sec. 2. 10 V.S.A. chapter 166 is added to read:

18 CHAPTER 166. DISPOSAL OF ELECTRONIC DEVICES

19 § 7301. DEFINITIONS

20 For the purposes of this chapter, the following terms shall have the
21 following meanings:

1 (1) "Agency" means the agency of natural resources.

2 (2) "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube
3 used to convert an electronic signal into a visual image.

4 (3) "Collection" means the aggregation of covered electronic devices
5 from households and includes all the activities up to the time the covered
6 electronic devices are delivered to a recycler.

7 (4) "Collector" means a public or private entity that receives covered
8 electronic devices from households and arranges for the delivery of the devices
9 to a recycler.

10 (5) "Computer" means a machine designed to manipulate data according
11 to a list of instructions known as a program and is generally known as a
12 desktop, laptop, or portable computer. "Computer" does not include computer
13 servers marketed to professional users.

14 (6) "Computer monitor" means a display device without a tuner that can
15 display pictures and sound and is used with a computer. "Computer monitor"
16 includes a laptop computer.

17 (7) "Covered electronic device" means computers; peripherals; video
18 display devices; personal electronics such as personal digital assistants and
19 personal music players; electronic game consoles; desktop printers, including
20 "all-in-one" machines with multiple functions such as print, fax, scan, or copy;
21 fax machines; cell phones; telephones; answering machines; videocassette

1 ~~recorders; digital versatile disc players; digital converter boxes; stereo~~
2 equipment; and power supply cords (as used to charge electronic devices) that
3 are sold to a consumer.

4 (8) "Environmentally sensitive materials" means each of the following,
5 and any equipment or component destined for recycling or disposal, or any
6 aggregate material derived from end-of-life equipment or components (e.g.,
7 shredded, granulated, or mixed materials), whether destined for recycling or
8 disposal, containing any of the following:

9 (A) Mercury or PCBs, including fluorescent lamps;

10 (B) CRTs and leaded CRT-processed and -unprocessed CRT glass;

11 (C) Circuit boards (whole, shredded, or in any other form);

12 (D) Batteries; or

13 (E) Toner.

14 (9) "Household" means an occupant of a single, detached dwelling unit
15 or a single unit of a multiple dwelling unit located in this state who has used a
16 video display device at a dwelling unit primarily for personal use.

17 (10) "Manufacturer" means a person who:

18 (A) Has a physical presence and legal assets in the United States of
19 America and:

20 (i) Manufactures or manufactured a video display device under its
21 own brand or label;

1 ~~(ii) Sells or sold under its own brand or label a video display~~
2 ~~device produced by another supplier; or~~

3 ~~(iii) Owns a brand that it licenses or licensed to another person for~~
4 ~~use on a video display device; or~~

5 ~~(B) Imports or imported a video display device into the United States~~
6 ~~that is manufactured by a person without a presence in the United States.~~

7 ~~(11) "Peripheral" means a keyboard, printer, or any other device sold~~
8 ~~exclusively for external use with a computer that provides input or output into~~
9 ~~or from a computer.~~

10 ~~(12) "Program year" means the period from July 1 through June 30.~~

11 ~~(13) "Recycler" means a person who accepts covered electronic devices~~
12 ~~from households and collectors for the purpose of recycling. A person who~~
13 ~~takes products solely for refurbishment or repair is not a recycler.~~

14 ~~(14) "Recycling" means the process of collecting and preparing video~~
15 ~~display devices or covered electronic devices for use in manufacturing~~
16 ~~processes or for recovery of useable materials followed by delivery of such~~
17 ~~materials for use. Recycling does not include destruction by incineration,~~
18 ~~waste-to-energy incineration, or other such processes; land disposal; or reuse,~~
19 ~~repair, or any other process through which video display devices or covered~~
20 ~~electronic devices are returned to use in their original form.~~

1 ~~(15) "Recycling credits" means the number of pounds of covered~~
2 ~~electronic devices recycled by a manufacturer during a program year, less the~~
3 ~~product of the number of pounds of video display devices sold during the same~~
4 ~~program year, multiplied by the proportion of sales a manufacturer is required~~
5 ~~to recycle. The calculation and uses of recycling credits are as specified in~~
6 ~~section 7303 of this title.~~

7 (16) "Retailer" means a person who sells, rents, or leases to a household,
8 through sales outlets, catalogues, or the Internet, a video display device that is
9 not for resale in any form.

10 (17) "Rural area" means a city or town with a population of 2,000 or
11 fewer persons.

12 (18) "Television" means any telecommunications system or device that
13 can broadcast or receive moving pictures and sound over a distance and
14 includes a television tuner or a display device peripheral to a computer that
15 contains a television tuner.

16 (19) "Transporter" means a person or entity that moves covered
17 electronic devices from a collector to a recycler.

18 (20) "Video display device" means a unit capable of presenting images
19 electronically on a screen, with a viewable area greater than four inches when
20 measured diagonally, that are viewed by the user, and includes televisions,
21 computer monitors, laptop computers, cathode ray tubes, plasma displays,

1 ~~liquid crystal displays, rear and front enclosed projection devices, and other~~

2 ~~similar displays that may be developed. "Video display device" does not~~

3 ~~include any of the following:~~

4 ~~(A) a video display device that is part of a motor vehicle or any~~
5 ~~component of a motor vehicle assembled by, or for, a vehicle manufacturer or~~
6 ~~franchised dealer, including replacement parts for use in a motor vehicle;~~

7 ~~(B) a video display device, including a touch-screen display, that is~~
8 ~~functionally or physically part of a larger piece of equipment or is designed~~
9 ~~and intended for use in an industrial, commercial, or retail setting.~~

10 ~~(C) a video display device that is contained within a clothes washer,~~
11 ~~clothes dryer, refrigerator, freezer, microwave oven, conventional oven or~~
12 ~~range, dishwasher, room air conditioner, dehumidifier, or air purifier; or~~

13 ~~(D) a telephone of any type unless it contains a video display area~~
14 ~~greater than nine inches when measured diagonally.~~

15 § 7302. REGISTRATION PROGRAM

16 (a) Requirements for sale.

17 (1) On or after July 1, 2010, a manufacturer must not sell or offer for
18 sale or deliver to retailers for subsequent sale a new video display device
19 unless:

20 (A) the video display device is labeled with the manufacturer's
21 brand, which label is permanently affixed and readily visible; and

1 ~~(B) the manufacturer has filed a registration with the agency, as~~
2 ~~specified in section 7303 of this title.~~

3 (2) On or after July 1, 2010, a retailer who sells or offers for sale a new
4 video display device to a household must, before the initial offer of sale,
5 review the agency website specified in section 7303 of this title to determine
6 that all new video display devices that the retailer is offering for sale are
7 labeled with the manufacturer's brands that are registered with the agency.

8 (3) A retailer is not responsible for an unlawful sale under this
9 subdivision if the manufacturer's registration expired or was revoked, the
10 retailer took possession of the video display device prior to the expiration or
11 revocation of the manufacturer's registration, and the unlawful sale occurred
12 within six months after the expiration or revocation.

13 (b) Manufacturer registration.

14 (1) A manufacturer of video display devices sold or offered for sale after
15 July 1, 2010 must submit a registration to the agency that includes:

16 (A) a list of the manufacturer's brands of video display devices
17 offered for sale in this state;

18 (B) the name, address, and contact information of a person
19 responsible for ensuring compliance with this chapter; and

20 (C) a certification that the manufacturer has complied and will
21 continue to comply with the requirements of this chapter.

1 ~~(2) A manufacturer who begins to sell or offer for sale video display~~
2 ~~devices to households after July 1, 2010 and has not filed a registration under~~
3 ~~this subdivision must submit a registration to the agency within ten days of~~
4 ~~beginning to sell or offer for sale video display devices.~~

5 ~~(3) A registration must be updated within ten days after a change in the~~
6 ~~manufacturer's brands of video display devices sold or offered for sale.~~

7 ~~(4) A registration is effective upon receipt by the agency and is valid~~
8 ~~until July 1 of each year.~~

9 ~~(5) The agency must review each registration and notify the~~
10 ~~manufacturer of any information required by this title that is omitted from the~~
11 ~~registration. Within 30 days of receipt of a notification from the agency, the~~
12 ~~manufacturer must submit a revised registration providing the information~~
13 ~~noted by the agency.~~

14 ~~(6) The agency must maintain on its website the names of manufacturers~~
15 ~~and the manufacturers' brands listed in registrations filed with the agency. The~~
16 ~~agency must update the website information within 10 days of receipt of a new~~
17 ~~or updated registration. The website must contain prominent language stating,~~
18 ~~in effect, that this chapter is directed at household equipment, and the~~
19 ~~manufacturers' brands list is, therefore, not a list of manufacturers qualified to~~
20 ~~sell to industrial, commercial, or other markets identified as exempt from the~~
21 ~~requirements of this chapter.~~

1 ~~(c) Collector and transporter registration. After July 1, 2010, no person~~
2 ~~may operate as a collector or transporter of covered electronic devices unless~~
3 ~~that person has submitted a registration with the agency on a form prescribed~~
4 ~~by the secretary. A registration is effective upon receipt by the agency and is~~
5 ~~valid until July 1 of each year. Collectors and transporters will comply with~~
6 ~~rules as established by the agency.~~

7 ~~(d) Recycler registration. After July 1, 2010, no person may recycle~~
8 ~~covered electronic devices unless that person has submitted a registration with~~
9 ~~the agency on a form prescribed by the commissioner. Registration~~
10 ~~information must include the name, address, telephone number, and location of~~
11 ~~all recycling facilities under the direct control of the recycler that may receive~~
12 ~~covered electronic devices. A registration is effective upon receipt by the~~
13 ~~agency and is valid until July 1 of each year.~~

14 ~~§ 7303. MANUFACTURER'S REGISTRATION FEE; CREATION OF~~
15 ~~ACCOUNT~~

16 ~~(a) Registration fee.~~

17 ~~(1) By July 1 of each year, all manufacturers who register under section~~
18 ~~7302 of this title must pay to the agency an annual registration fee. The~~
19 ~~commissioner must deposit the fee into the account established by this section.~~

20 ~~(2) The registration fee for the initial program year during which a~~
21 ~~manufacturer's video display devices are sold is \$5,000.00. Each year~~

1 ~~thereafter, the registration fee is equal to a base of \$5,000.00, plus a variable~~
2 ~~recycling fee calculated according to the formula in subdivision (3) of this~~
3 ~~subsection.~~

4 ~~(3) Using quantities from the preceding program year, the variable~~
5 ~~recycling fee shall be an amount equal to the pounds required to have been~~
6 ~~recycled under this chapter minus the pounds reported recycled, multiplied by~~
7 ~~the estimated per-pound cost of recycling. The variable recycling fee shall be~~
8 ~~calculated according to the formula—variable recycling fee = ((A × B) –~~
9 ~~(C + D)) × E, where:~~

10 ~~(A) A = the number of pounds of a manufacturer's video display~~
11 ~~device sold during the previous program year, as reported to the agency under~~
12 ~~section 7305 of this title;~~

13 ~~(B) B = the proportion of sales of video display devices required to~~
14 ~~be recycled, set at 0.6 for the first program year and at 0.8 for the second~~
15 ~~program year and every year thereafter;~~

16 ~~(C) C = the number of pounds of covered electronic devices recycled~~
17 ~~by a manufacturer during the previous program year, as reported to the agency~~
18 ~~under section 7305 of this title;~~

19 ~~(D) D = the number of recycling credits a manufacturer elects to use~~
20 ~~during the current program year to calculate the variable recycling fee, as~~
21 ~~reported to the agency under section 7305 of this title; and~~

1 ~~(E) E = the estimated per pound cost of recycling used to calculate~~
2 ~~the variable recycling fee, initially set at \$0.50 per pound for manufacturers~~
3 ~~who recycle less than 50 percent of the product required to be recycled under~~
4 ~~this chapter (A × B); \$0.40 per pound for manufacturers who recycle at least~~
5 ~~50 percent but less than 90 percent of the product required to be recycled under~~
6 ~~this chapter (A × B); and \$0.30 per pound for manufacturers who recycle at~~
7 ~~least 90 percent of the product required to be recycled under this chapter~~
8 ~~(A × B).~~

9 (4) ~~For the purpose of calculating the variable recycling fee for a given~~
10 ~~year, a manufacturer may carry recycling credits forward from any of the three~~
11 ~~preceding program years to be added, in whole or in part, to the number of~~
12 ~~pounds reported recycled. Recycling credits are created when the number of~~
13 ~~pounds reported recycled exceeds the number of pounds required to have been~~
14 ~~recycled under this chapter according to the formula: credit = C – (A × B),~~
15 ~~where A, B, and C are defined as in subdivision (3) of this subsection. A~~
16 ~~manufacturer may sell any portion of its recycling credits to another~~
17 ~~manufacturer, at a price negotiated by the parties, who may use the credits in~~
18 ~~the same manner and may carry recycling credits forward from any of the three~~
19 ~~preceding program years.~~

20 (5) ~~For the purpose of calculating a manufacturer's variable recycling~~
21 ~~fee under subdivision (2) of this subsection, the weight of covered tested and~~

~~1 working electronic devices collected and donated for reuse or collected in rural~~

~~2 areas is calculated at 1.5 × their actual weight. Donations of covered~~

~~3 electronics must be free of charge to any nonprofit corporation qualifying~~

~~4 under Section 501(c)(3) of the Internal Revenue Code. To qualify for the~~

~~5 donation credits under this subdivision, manufacturers must ensure the delivery~~

~~6 of a covered electronic device that:~~

~~7 (A) is no older than six years old;~~

~~8 (B) where applicable, has a functioning operating system;~~

~~9 (C) is in full working condition; and~~

~~10 (D) has been approved in writing for donation by the recipient.~~

~~11 (6) The registration fee for the initial program year and the base~~

~~12 registration fee thereafter for a manufacturer who produces fewer than 100~~

~~13 video display devices for sale annually is \$1,250.00.~~

~~14 (b) Creation of electronic waste management fund. The electronic waste~~

~~15 management fund is established in the state treasury pursuant to subchapter 5~~

~~16 of chapter 7 of Title 32. The fund shall be administered by the department of~~

~~17 environmental conservation to implement the programs authorized by this~~

~~18 chapter. The fund shall consist of the fees collected under subsection (a) of~~

~~19 this section and any gifts, donations, and appropriations by the general~~

~~20 assembly. All balances in the fund at the end of any fiscal year shall be carried~~

1 ~~forward and remain part of the fund. Interest earned by the fund shall be~~
2 ~~deposited in the fund.~~

3 § 7304. REPORTING REQUIREMENTS

4 (a) Manufacturer's reporting requirements.

5 (1) By July 1 of each year, beginning July 1, 2011, each manufacturer
6 must report to the agency the total weight of each specific model of its video
7 display devices sold during the previous program year; along with either:

8 (A) the total weight of its video display devices sold during the
9 previous program year; or

10 (B) an estimate of the total weight of its video display devices sold
11 during the previous program year based on national sales data. A manufacturer
12 must submit with the report required under this subsection a description of how
13 the information or estimate was calculated.

14 (2) By July 1 of each year, beginning July 1, 2011, each manufacturer
15 must report to the agency the total weight of covered electronic devices the
16 manufacturer collected and recycled or arranged to have collected and recycled
17 during the preceding program year. If a manufacturer wishes to receive the
18 variable recycling rate of 1.5 for the covered electronic devices it recycles, the
19 manufacturer shall report separately the total weight of covered electronic
20 devices collected in the state and donated to a nonprofit organization as
21 specified in subdivision 7303(a)(5) of this title.

1 ~~(3) By July 1 of each year, beginning July 1, 2011, each manufacturer~~
2 ~~must report to the agency:~~

3 ~~(A) the number of recycling credits the manufacturer has purchased~~
4 ~~and sold during the preceding program year;~~

5 ~~(B) the number of recycling credits possessed by the manufacturer~~
6 ~~that the manufacturer elects to use in the calculation of its variable recycling~~
7 ~~fee under this chapter, and~~

8 ~~(C) the number of recycling credits the manufacturer retains at the~~
9 ~~beginning of the current program year.~~

10 ~~(b) Recycler's reporting requirements. By July 1 of each year, beginning~~
11 ~~July 1, 2011, a recycler of covered electronic devices must report to the agency~~
12 ~~the total weight of covered electronic devices recycled during the preceding~~
13 ~~program year and must certify that the recycler has complied with subsection~~
14 ~~7305(b) of this title.~~

15 ~~(c) Collector's reporting requirements. By July 1 of each year, beginning~~
16 ~~July 1, 2011, a collector of covered electronic devices must report to the~~
17 ~~agency the total pounds of covered electronic devices collected and a list of all~~
18 ~~recyclers to whom collectors delivered covered electronic devices.~~

19 § 7305. RESPONSIBILITIES

20 ~~(a) Manufacturer's responsibilities. Manufacturers shall comply with the~~
21 ~~following:~~

1 ~~(1) A manufacturer shall annually recycle or arrange and pay for the~~
2 ~~collection and recycling of an amount of covered electronic devices equal to~~
3 ~~the total weight of its video display devices sold during the preceding program~~
4 ~~year, multiplied by the proportion of sales of video display devices required to~~
5 ~~be recycled as established by the agency under section 7306 of this title.~~
6 ~~Manufacturers or entities they contract with may not charge fees at the time of~~
7 ~~collecting the unwanted covered electronic devices if those devices will be~~
8 ~~counted toward the manufacturer's recycling requirement.~~

9 ~~(2) Manufacturers may only count covered electronic devices received~~
10 ~~from households toward their recycling requirements listed under section 7303~~
11 ~~of this title.~~

12 ~~(3) A manufacturer must conduct and document due diligence~~
13 ~~assessments of the collectors and recyclers with whom it contracts, including~~
14 ~~an assessment of items specified under subsection (b) of this section. A~~
15 ~~manufacturer is responsible for maintaining, for a period of three years,~~
16 ~~documentation that all video display devices recycled, partially recycled, or~~
17 ~~sent to downstream recycling operations comply with the requirements of~~
18 ~~subsection (b) of this section. A manufacturer must provide documentation of~~
19 ~~an audit of each recycler with whom it contracts.~~

1 ~~(4) A manufacturer operating its own recycling program must~~
2 ~~demonstrate that its programs are in compliance with the responsibilities~~
3 ~~imposed upon recyclers under subsection (b) of this section.~~

4 ~~(5) A manufacturer shall report to the agency the number of video~~
5 ~~display devices by model sold in the state during the previous program year,~~
6 ~~including documentation describing how that amount was calculated and a~~
7 ~~certification that the amount is correct.~~

8 ~~(6) A manufacturer shall provide the agency with contact information~~
9 ~~for a person who can be contacted regarding the manufacturer's activities~~
10 ~~under this chapter.~~

11 ~~(b) Recycler's responsibilities. As part of the report submitted under~~
12 ~~subsection 7304(b) of this title, recyclers participating in the state e-waste~~
13 ~~recycling program by receiving e-waste that is being used toward meeting~~
14 ~~annual recycling goals must provide to the agency a sworn certification that~~
15 ~~their handling, processing, refurbishment, and recycling of covered electronic~~
16 ~~devices:~~

17 ~~(1) meet guidelines for environmentally sound management published~~
18 ~~by the agency;~~

19 ~~(2) comply with and ensure that all their downstream vendors comply~~
20 ~~with all local, state, and federal regulations throughout final disposition, and~~

1 ~~must not violate laws in importing and transit countries when exporting~~
2 environmentally sensitive materials;

3 (3) are licensed by all applicable governmental authorities; and

4 (4) possess liability insurance of not less than \$1,000,000.00 for
5 environmental releases, accidents, and other emergencies.

6 (c) Retailer's responsibilities. A retailer who sells new video display
7 devices shall provide information to customers describing where and how they
8 may recycle video display devices and advising them of opportunities and
9 locations for the convenient collection of video display devices for the purpose
10 of recycling. This requirement may be met by providing the agency's toll-free
11 number and website address. Retailers selling through catalogues or the
12 Internet may meet this requirement by including the information in a
13 prominent location on the retailer's website.

14 § 7306. AGENCY DUTIES

15 The agency shall:

16 (1) Administer this chapter.

17 (2) Establish procedures for:

18 (A) receipt and understanding of the registration statements and
19 certifications filed with the agency under this chapter; and

20 (B) making the statements and certifications easily available to
21 manufacturers, retailers, and members of the public.

1 ~~(3) Collect the data submitted annually by each manufacturer on the~~
2 ~~total weight of each specific model of video display device sold; the total~~
3 ~~weight of video display devices sold; the total weight of covered electronic~~
4 ~~devices collected which are recycled; and data on recycling credits, as required~~
5 ~~under section 7304 of this title. The agency shall use this data to review each~~
6 ~~manufacturer's annual registration fee to ensure that the fee was calculated~~
7 ~~accurately according to the formula in section 7303 of this title.~~

8 ~~(4) Annually review the value of the following variables that are part of~~
9 ~~the formula used to calculate a manufacturer's annual registration fee under~~
10 ~~section 7303 of this title. If the agency determines that any of these values~~
11 ~~must be changed in order to improve the efficiency or effectiveness of the~~
12 ~~activities regulated under this chapter or if the revenues in the account exceed~~
13 ~~the amount that the agency determines is necessary, the agency shall submit~~
14 ~~recommended changes to the senate and house committees on natural~~
15 ~~resources and energy.~~

16 ~~(5) Beginning in 2011, estimate by July 1 of each year each registered~~
17 ~~manufacturer's sales of video display devices during the previous year, based~~
18 ~~on data provided by a manufacturer on sales of video display devices,~~
19 ~~including documentation describing how that amount was calculated and~~
20 ~~certification that the amount is accurate.~~

1 ~~(6) Beginning December 1, 2011, provide on or before December 1 of~~
2 ~~each year a report to the secretary of administration and the senate and house~~
3 ~~committees on natural resources and energy on the implementation of this~~
4 ~~chapter. For each program year, the report must discuss the total weight of~~
5 ~~covered electronic devices recycled and a summary of information in the~~
6 ~~reports submitted by manufacturers, collectors, and recyclers under section~~
7 ~~7304 of this title. The report must also discuss the various collection programs~~
8 ~~used by manufacturers to collect covered electronic devices; information~~
9 ~~regarding covered electronic devices that are being collected by persons other~~
10 ~~than registered manufacturers, collectors, and recyclers; and information about~~
11 ~~covered electronic devices, if any, being disposed of in landfills in this state.~~
12 ~~The report must include a description of enforcement actions under this~~
13 ~~chapter. The agency may include in its report other information received by~~
14 ~~the agency regarding the implementation of this chapter.~~

15 (7) Promote public participation in the activities regulated under this
16 chapter through public education and outreach efforts.

17 (8) Enforce this chapter in the manner provided for in section 8003 of
18 this title. The agency may revoke a registration of a collector or recycler found
19 to have violated this chapter.

1 ~~(9) Facilitate communications between counties, collection and~~
2 ~~recycling centers, and manufacturers to ensure that manufacturers are aware of~~
3 ~~video display devices available for recycling.~~

4 ~~(10) Post on its website the contact information provided by each~~
5 ~~manufacturer under section 7304 of this title.~~

6 ~~(11) Establish guidelines for environmentally sound management of~~
7 ~~consumer electronics, including specific requirements for collectors,~~
8 ~~transporters, and processors.~~

9 ~~(12) No later than July 1, 2010, adopt by rule environmentally sound~~
10 ~~recycling and reuse practices for the recycling of covered electronic devices.~~

11 ~~The rules shall:~~

12 ~~(A) include recycling and reuse practices to be followed by~~
13 ~~manufacturers subject to the requirements of this chapter;~~

14 ~~(B) require manufacturers to implement compliance assurance~~
15 ~~measures;~~

16 ~~(C) include recycling and reuse practices that collectors, transporters,~~
17 ~~and recyclers shall follow;~~

18 ~~(D) require manufacturers to be responsible for ensuring that the~~
19 ~~export of a covered electronic device that contains environmentally sensitive~~
20 ~~materials does not violate laws in importing and transit countries;~~

1 ~~(E) include environmental management standards for processors that~~
2 ~~address minimum on-site hazards, worker protection, adequate controls for~~
3 ~~covered electronic devices supposedly going for reuse, and specific due~~
4 ~~diligence requirements for the downstream chain of custody of materials of~~
5 ~~concern. The environmental management standards may allow the use of~~
6 ~~accredited certification programs.~~

7 § 7307. OTHER RECYCLING PROGRAMS

8 A municipality or other public agency may not require households to use
9 public facilities to recycle their covered electronic devices to the exclusion of
10 other lawful programs available. A municipality and other public agencies are
11 encouraged to work with manufacturers to assist them in meeting their
12 recycling obligations under this chapter. Nothing in this chapter prohibits or
13 restricts the operation of any program recycling covered electronic devices in
14 addition to those provided by manufacturers or prohibits or restricts any
15 persons from receiving, collecting, transporting, or recycling covered
16 electronic devices, provided that those persons are registered under section
17 7302 of this title.

18 § 7308. ANTICOMPETITIVE CONDUCT

19 (a) A manufacturer that organizes collection or recycling under this section
20 is authorized to engage in anticompetitive conduct to the extent necessary to
21 plan and implement its chosen organized collection or recycling system and is

1 ~~immune from liability under state laws relating to antitrust, restraint of trade,~~
2 ~~unfair trade practices, and other regulation of trade or commerce.~~

3 ~~(b) An organization of manufacturers, an individual manufacturer, and its~~
4 ~~officers, members, employees, and agents who cooperate with a political~~
5 ~~subdivision that organizes collection or recycling under this chapter are~~
6 ~~authorized to engage in anticompetitive conduct to the extent necessary to plan~~
7 ~~and implement the organized collection or recycling system, provided that the~~
8 ~~political subdivision actively supervises the participation of each entity. An~~
9 ~~organization, entity, or person covered by this subdivision is immune from~~
10 ~~liability under state law relating to antitrust, restraint of trade, unfair trade~~
11 ~~practices, and other regulation of trade or commerce.~~

12 § 7309. PURCHASING BY STATE AGENCIES

13 Beginning January 1, 2010, the department of buildings and general
14 services and all other state agencies and departments shall comply with the
15 requirements of this chapter when purchasing or acquiring video display
16 devices.

17 § 7310. MULTISTATE IMPLEMENTATION

18 The agency is authorized to participate in the establishment of a regional
19 multistate organization or compact to assist in carrying out the requirements of
20 this chapter.

1 ~~§ 7311. LIMITATIONS~~

2 ~~If a federal law or combination of federal laws takes effect that are~~
3 ~~applicable to all video display devices sold in the United States and establishes~~
4 ~~a program for the collection and recycling or reuse of video display devices~~
5 ~~that is applicable to all discarded video display devices, the agency will~~
6 ~~evaluate whether these laws provide a solution that is equal to or better than~~
7 ~~the program established under this chapter. The agency shall report its~~
8 ~~findings to the general assembly.~~

9 ~~§ 7312. BAN ON PRISON LABOR~~

10 ~~No facility that recycles covered electronic products, including downstream~~
11 ~~recycling operations, shall use prison labor to recycle covered electronic~~
12 ~~products.~~

13 ~~§ 7313. DISPOSAL BAN~~

14 ~~No person shall place or dispose of any covered electronic device in any~~
15 ~~solid waste disposal facility.~~

16 ~~Sec. 3. EFFECTIVE DATE~~

17 ~~This act shall take effect upon passage.~~

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds:

(1) According to the U.S. Environmental Protection Agency, discarded computers, computer monitors, televisions, and other consumer electronics—collectively referred to as e-waste—are the fastest growing portion of the waste stream, growing by approximately eight percent from 2004 to 2005.

(2) Televisions, computers, computer monitors, and printers are

prevalent in modern society and contribute significantly to the waste generated in Vermont.

(3) Televisions, computers, computer monitors, and printers contain lead, mercury, and other hazardous substances that pose a threat to human health and the environment if improperly disposed of at the end of the useful life of these products.

(4) The state of Vermont has committed to providing its citizens with a safe and healthy environment and has actively undertaken efforts such as mercury reduction programs to reduce the potential for contamination.

(5) The appropriate recycling of televisions, computers, computer monitors, and printers protects public health and the environment by reducing the potential for the release of heavy metals and mercury from landfills into the environment, consistent with other state initiatives, and also conserving valuable landfill space.

(6) The establishment of a system to provide for the collection and recycling of televisions, computers, computer monitors, and printers in Vermont is consistent with the state's duty to protect the health, safety, and welfare of its citizens; maintain and enhance the quality of the environment; conserve natural resources; prevent pollution of air, water, and land; and stimulate economic growth.

Sec. 2. 10 V.S.A. chapter 166 is added to read:

CHAPTER 166. COLLECTION AND RECYCLING OF ELECTRONIC DEVICES

§ 7551. DEFINITIONS

For the purposes of this chapter:

(1) "Agency" means the agency of natural resources.

(2) "Cathode-ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

(3) "Collection" means the aggregation of ~~covered electronic devices~~ electronic waste from covered entities and includes all the activities up to the time the ~~covered electronic devices~~ electronic waste ~~are~~ is delivered to a recycler.

(4) "Collector" means a public or private entity that receives covered electronic devices from covered entities and arranges for the delivery of the devices to a recycler.

(5) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing

logical, arithmetic, or storage functions, including a laptop computer, desktop computer, and central processing unit. "Computer" does not include an automated typewriter or typesetter or other similar device.

(6) "Computer monitor" means a display device without a tuner that can display pictures and sound and is used with a computer.

(7) "Computer peripheral" means a keyboard or any other device sold exclusively for external use with a computer that provides input or output into or from a computer.

(8) "Covered electronic device" means a: computer; computer monitor; device containing a cathode ray tube; printer; or television sold to a covered entity. "Covered electronic device" does not include: any motor vehicle or any part thereof; a camera or video camera; a portable or stationary radio; a wireless telephone; a household appliance, such as a clothes washer, clothes dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development, or commercial setting; security or anti-terrorism equipment; monitoring and control instruments or systems; thermostats; hand-held transceivers; a telephone of any type; a portable digital assistant or similar device; a calculator; a global positioning system receiver or similar navigation device; commercial medical equipment that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display that is not separate from the larger piece of equipment; or other medical devices, as the term "device" is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug, and Cosmetic Act, as that section is amended from time to time.

(9) "Covered entity" means any household, charity, or school district in the state; or a business in the state that employs ten or fewer individuals.

(10) "Electronic waste" means a: computer; computer monitor; computer peripheral; device containing a cathode ray tube; printer; or television sold to a covered entity. "Electronic waste" does not include: any motor vehicle or any part thereof; a camera or video camera; a portable or stationary radio; a wireless telephone; a household appliance, such as a clothes washer, clothes dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, library, research and development, or commercial setting; security or antiterrorism equipment; monitoring and control instruments or systems; thermostats; handheld transceivers; a telephone of any type; a portable digital assistant or similar device; a calculator; a global positioning system receiver or similar

navigation device; commercial medical equipment that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display that is not separate from the larger piece of equipment; or other medical devices, as the term "device" is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug, and Cosmetic Act, as that section is amended from time to time.

(11) "Manufacturer" means a person who:

(A) Manufactures or manufactured a covered electronic device under its own brand or label for sale in the state;

(B) Sells in the state under its own brand or label covered electronic devices produced by another supplier;

(C) Owns a brand that it licenses or licensed to another person for use on a covered electronic device sold in the state;

~~(D) Imports covered electronic devices into the United States for sale in the state;~~

(D) Imports into the United States for sale in the state a covered electronic device manufactured by a person without a presence in the United States;

(E) Manufactures covered electronic devices for sale in the state without affixing a brand name; or

(F) Assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (A) through (E) of this subdivision (11), provided that the secretary may enforce the requirements of this chapter against a manufacturer if a person who assumes the manufacturer's responsibilities fails to comply with the requirements of this chapter.

(12) "Market share" means a "manufacturer's market share" which shall be the manufacturer's percentage share of the total weight of covered electronic devices sold in the state as determined by the best available information, which may include an estimate of the aggregate total weight of the manufacturer's covered electronic devices sold in the state during the previous program year based on national sales data.

(13) "Printer" means desktop printers, multifunction printer copiers, and printer fax combinations taken out of service that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or "all-in-one" devices that perform different tasks, including copying, scanning, faxing, and printing. "Printer" does not include floor-standing printers, printers with an optional floor stand,

point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or nonstand-alone printers that are embedded into products that are not covered electronic products.

(14) "Program year" means the period from July 1 through June 30.

(15) "Recycler" means a person who accepts electronic waste from covered entities and collectors for the purpose of recycling. A person who takes products solely for reuse, refurbishment, or repair is not a recycler.

(16) "Recycling" means the process of collecting and preparing electronic wastes for use in manufacturing processes or for recovery of useable materials followed by delivery of such materials for use. Recycling does not include destruction by incineration; waste-to-energy incineration, or other such processes; or land disposal.

(17) "Retailer" means a person who sells, rents, or leases covered electronic devices to a person in the state, through any means, including sales outlets, catalogues, the telephone, the Internet, or any electronic means.

(18) "Sell" or "sale" means any transfer for consideration of title or of the right to use by lease or sales contract of a covered electronic device to a person in the state. "Sell" or "sale" does not include the sale, resale, lease, or transfer of used covered electronic devices or a manufacturer's or a distributor's wholesale transaction with a distributor or a retailer.

(19) "Television" means any telecommunications system or device containing a cathode ray tube or other type of display system with a viewable area of greater than four inches when measured diagonally that can broadcast or receive moving pictures and sound over a distance and includes a television tuner or a display device peripheral to a computer that contains a television tuner.

(20) "Transporter" means a person that moves electronic waste from a collector to a recycler.

§ 7552. STANDARD ELECTRONIC WASTE RECYCLING PLAN

(a) Standard plan adoption. Beginning January 1, 2011, the secretary shall adopt a plan for the collection and recycling of all electronic waste in the state. In developing the plan, the secretary shall evaluate existing electronic waste collection opportunities and services in each county to determine whether such opportunities and services are adequate. In making an adequacy determination, the secretary shall consider the geography, population, and population density of each county. If, after completion of an adequacy review, the secretary determines that the collection opportunities in a county are:

(1) inadequate, the secretary may require additional collection activities

in that county. Additional collection activities may include additional collection facilities, collection events, or other collection activities identified by the secretary as necessary to achieve the statewide recycling goal. If the secretary requires additional collection activities, the secretary shall consider, as one of the criteria reviewed in selecting additional collection activities, the cost effectiveness of the additional collection activities in achieving the objective of convenient service.

(2) adequate, and that additional collection opportunities are not required.

(b) Standard plan minimum requirements. The standard plan shall:

(1) Site at least three permanent facilities in each county for the collection of electronic waste from covered entities, unless the secretary determines that existing or proposed collection opportunities are not required, but in no case shall the secretary reduce the number of permanent facilities below one.

(2) Site at least one permanent facility in each city or town with a population of 10,000 or greater for the collection of electronic waste from covered entities.

(3) Require electronic waste collection facilities to accept electronic waste at no cost to covered entities.

(4) Ensure that each recycler used in implementing the plan complies with the recycling standards established under section 7559 of this title.

(5) Ensure that during plan implementation a public information and outreach effort takes place to inform consumers about how to recycle their electronic waste at the end of the product's life.

(6) Require electronic waste collection facilities to be staffed, open on an ongoing basis, and open to the public at a frequency needed to meet the needs of the area being served.

(7) Prohibit a collection facility from refusing to accept electronic waste delivered to the facility for recycling from a covered entity.

(c) Plan evaluation. The secretary shall annually review and analyze the standard plan to determine if implementation of the standard plan achieves the statewide collection and recycling goal set forth under section 7555 of this title. The secretary may modify the plan based upon the results of that review.

(d) Plan term. The secretary shall revise and adopt the standard plan every five years.

(e) Public review and consultation. Prior to the approval or modification

of the standard plan, the agency shall make the proposed standard plan available for public review and comment for at least 30 days. The agency shall consult with interested persons, including manufacturers, recyclers, collectors, retailers, solid waste districts, and environmental groups.

(f) Applicability. A collector, transporter, or recycler not included in a plan approved under this section or under a plan approved under section 7554 of this title shall not be subject to the requirements of this section or section 7554.

§ 7553. SALE OF COVERED ELECTRONIC DEVICES; MANUFACTURER REGISTRATION

(a) Sale prohibited. Beginning July 1, 2010, no manufacturer shall sell or offer for sale or deliver to a retailer for subsequent sale a covered electronic device unless:

(1) the manufacturer has filed the registration required by this section;

(2)(A) beginning July 1, 2010, and annually thereafter, the manufacturer has paid the fee required by subsection (g) of this section; and

(B) beginning July 1, 2011, and annually thereafter, if the manufacturer is covered under the standard plan, the manufacturer has paid the fee required by subsection (h) of this section.

(3) the covered electronic device is labeled with the manufacturer's brand or registered trademark and the label or trademark is permanently affixed and readily visible.

(b) Manufacturer registration requirements.

(1) The manufacturer shall file a registration form with the secretary. The secretary shall provide the registration form to a manufacturer. The registration form shall include:

(A) a list of the manufacturer's brands of covered electronic devices offered for sale by the manufacturer in this state;

(B) the name, address, and contact information of a person responsible for ensuring the manufacturer's compliance with this chapter;

(C) beginning July 1, 2011 and annually thereafter, a certification that the manufacturer is seeking coverage under the standard plan set forth under subsection (a) of this section or, under a plan approved under section 7554 of this title, is opting out of the standard plan; and

(D) an estimate of the aggregate total weight of the manufacturer's covered electronic devices sold during the previous program year based on national sales data. A manufacturer shall submit with the report required

under this subsection a description of how the estimate was calculated. The data submitted under this subdivision shall be considered a trade secret for the purposes of subdivision 317(c)(9) of Title 1.

(2) A renewal of a registration without changes may be accomplished through notifying the agency of natural resources on a form provided by the agency.

(c) Registration prior to sale. A manufacturer who begins to sell or offer for sale covered electronic devices and has not filed a registration under this section or section 7554 of this title shall submit a registration to the agency of natural resources within ten days of beginning to sell or offer for sale covered electronic devices.

(d) Amendments to registration. A registration shall be amended within ten days after a change to any information included in the registration submitted by the manufacturer under this section.

(e) Effective date of registration. A registration is effective upon receipt by the agency of natural resources of a complete registration form and payment of fees required by this section. Registration under this chapter shall be renewed annually.

(f) Agency review of registration application. The agency of natural resources shall notify the manufacturer of any required information that is omitted from the registration. Upon receipt of a notification from the agency, the manufacturer shall submit a revised registration providing the information noted by the agency.

(g)(1) Registration fee. Each manufacturer of a covered electronic device registered under this section shall pay to the secretary a fee:

(A) For the program year beginning July 1, 2010, for manufacturers who sell in Vermont no more than 100 covered electronic devices, the fee shall be \$1,250.00 and for all other manufacturers, the fee shall be \$5,000.00.

(B) For the program year beginning July 1, 2011 and annually thereafter, the fee shall be determined by multiplying the manufacturer's market share by the cost to the agency of administering the electronic waste collection program under this chapter.

(2) The fees collected under this subsection shall be deposited into the electronic waste collection and recycling account of the waste management assistance fund.

(h) Implementation fee.

(1) For the program year of July 1, 2011, through June 30, 2012, each manufacturer that seeks coverage under the standard plan shall pay to the

secretary an implementation fee that shall be assessed on a quarterly basis and that shall be determined by multiplying the manufacturer's market share by the prior quarter's cost of implementing the electronic waste collection and recycling program adopted under the standard plan. For purposes of this section, the electronic waste and recycling program includes collection, transportation, recycling, and the reasonable cost of contract administration.

(2) Beginning with the program year starting July 1, 2012, a proposed methodology for calculating the implementation fee for manufacturers seeking coverage under the standard plan shall be included in the executive branch fee report and approved by the general assembly according to the requirements of subchapter 6 of chapter 7 of Title 32.

(3) The fee collected under this subsection shall be deposited into the electronic waste collection and recycling account of the waste management assistance fund.

(4) For purposes of reimbursing the solid waste management account in full for all funds transferred to the electronic waste collection and recycling assistance account for implementation of the electronic waste collection and recycling program, the secretary, under subdivision (1) or (2) of this subsection, may assess against a manufacturer registered and operating under the standard plan set forth in section 7552 of this title a charge in addition to the manufacturer's prorated share of the costs of implementing the electronic waste collection and recycling program.

(5) At the end of each program year, the secretary shall review the total costs of collection and recycling for the program year and shall reappropriate the implementation fee assessed under this subsection ~~to accurately reflect the manufacturer's actual market share~~ to accurately reflect the actual cost of the program and the manufacturer's market share of covered electronic devices sold in the state during the program year.

(i) Exemption. A manufacturer who sells less than 20 covered electronic devices in Vermont in a program year is exempt from the requirements of this section.

§ 7554. MANUFACTURER OPT-OUT; INDIVIDUAL PLAN

(a) Opt-out of standard plan. A manufacturer or group of manufacturers may elect not to seek coverage under the standard plan established under section 7552 of this title, provided that the manufacturer or group of manufacturers complies with the requirements of subdivisions 7553(a)(1)–(3) and submits an individual plan to the secretary for approval that:

(1) Provides for each county the number of collection methods identified in the standard plan adopted under section 7552 of this title.

(2) Describes the collection, transportation, and recycling systems and service providers used, including a description of how the authority or authorized party will:

(A) Seek to use businesses within the state, including retailers, charities, processors, and collection and transportation services, to fulfill its program goal under this section;

(B) Fairly compensate collectors for providing collection services;
and

(C) Fairly compensate recyclers for providing recycling services.

(3) Describes how the plan will provide service to covered entities.

(4) Describes the processes and methods used to recycle electronic waste, including a description of the processing that will be used and the facility location.

(5) Documents the audits of each recycler used in the plan and compliance with recycling standards established under section 7559 of this title.

(6) Describes the accounting and reporting systems that will be employed to track progress toward the plan's equivalent share.

(7) Includes a time line describing start-up, implementation, and progress toward milestones with anticipated results.

(8) Includes a public information campaign to inform consumers about how to recycle their electronic waste at the end of the product's life.

(b) Manufacturer program goal. An individual plan submitted under this section shall be implemented to ensure satisfaction of the manufacturer's electronic waste program goal. The electronic waste recycling program goal for a manufacturer that submits a plan under this section shall be the product of the relevant statewide recycling goal set forth in subsection 7555(a) of this title multiplied by the manufacturer's market share of covered electronic devices. A manufacturer that submits a plan under this section may only count electronic waste received from covered entities toward the program goal set forth in this section.

(c) Collection from covered entities. A manufacturer that submits a plan under this section or a collector operating on behalf of a manufacturer that submits a plan under this section shall not charge a fee to covered entities for the collection, transportation, or recycling of electronic waste.

(d) Public review and consultation. Prior to approval of a plan under this section, the agency shall make the manufacturer's proposed plan available for

public review and comment for at least 30 days.

(e) Collection facilities. If a manufacturer that submits a plan under this section is required to implement a collection facility, the collection facility shall be staffed, open on an ongoing basis, and open to the public at a frequency approved by the secretary in order to meet the needs of the area being served. A collection facility implemented under this section shall be prohibited from refusing or rejecting acceptance of electronic waste delivered to the facility for recycling.

(f) Annual report. Beginning August 1, 2012, a manufacturer that submits a plan under this section shall report by August 1, and annually thereafter, to the secretary the following:

(1) the type of electronic waste collected;

(2) the aggregate total weight of electronic waste the manufacturer recycled by type during the preceding program year;

(3) a list of recyclers utilized by the manufacturer;

(4) a description of the processes and methods used to recycle the electronic waste; and

(5) a summary of the educational and outreach activities undertaken by the manufacturer.

(g)(1) Parity surcharge. A manufacturer that submits a plan under this section shall be assessed a surcharge if the lesser of the following occurs:

(A) the manufacturer accepts less than the program goal set forth in subsection (b) of this section; or

(B) the manufacturer accepts less than its market share portion of the total of electronic waste collected in the state.

(2) The surcharge shall be calculated by multiplying the average per pound of cost to the secretary for the current program year to implement the standard plan plus 20 percent by the number of additional pounds of electronic waste that should have been accepted by the manufacturer. The surcharges collected under this section shall be deposited into the electronic waste collection and recycling account of the waste management assistance fund and used to offset the costs of program implementation.

(h) Effective date of plan approval. A plan submitted under this section shall not be approved until the secretary determines that the plan will provide a functionally equivalent level of electronic waste collection and recycling as the standard plan and that all the requirements of this section have been met.

(i) Amendments to plan. An amendment to an individual plan approved

under this section shall not take effect until approved by the secretary.

(j) Opt-in to standard plan. At the completion of any program year, a manufacturer approved under this section may seek coverage under the standard plan adopted under section 7552 of this title.

§ 7555. STATEWIDE RECYCLING GOAL

(a) Statewide recycling goal.

(1) For the program year of July 1, 2011, to June 30, 2012, the statewide recycling goal for electronic waste shall be the product of the U.S. Census Bureau's 2010 population estimate for the state multiplied by 5.5 pounds.

(2) For the program year of July 1, 2012, to June 30, 2013, the statewide recycling goal for electronic waste shall be the product of the U.S. Census Bureau's 2010 population estimate for the state multiplied by 6.0 pounds.

(3) For the program year of July 1, 2013, to June 30, 2014, and annually thereafter, the statewide recycling goal for all electronic waste shall be the product of the base weight multiplied by the goal attainment percentage.

(b) Base weight. For purposes of this section, "base weight" means the average weight of all electronic waste reported as collected under this chapter during the previous two program years.

(c) Goal attainment percentage. For purposes of this section, "goal attainment percentage" means, for each type of product:

(1) 90 percent if the base weight is less than 90 percent of the statewide recycling goal for the previous calendar year;

(2) 95 percent if the base weight is 90 percent or greater, but not more than 95 percent of the statewide recycling goal for the previous calendar year;

(3) 100 percent if the base weight is 95 percent or greater, but not more than 105 percent of the statewide recycling goal for the previous calendar year;

(4) 105 percent if the base weight is 105 percent or greater, but not more than 110 percent of the statewide recycling goal for the previous calendar year; or

(5) 110 percent if the base weight is 110 percent or greater of the statewide recycling goal.

§ 7556. RETAILER OBLIGATIONS

(a) Sale prohibited. Beginning July 1, 2010, no retailer shall sell or offer

for sale a covered electronic device unless the covered electronic device is labeled by the manufacturer as required by subdivision 7553(a)(3) of this title, and the retailer has reviewed the website required in subdivision 7559(6) of this title to determine that the labeled manufacturers of all new covered electronic devices that the retailer is offering for sale are registered with the agency of natural resources.

(b) Expiration or revocation of manufacturer registration. A retailer shall not be responsible for an unlawful sale under this subdivision if the manufacturer was not registered or the manufacturer's registration expired or was revoked if the retailer took possession of the covered electronic device prior to July 1, 2010 or prior to the expiration or revocation of the manufacturer's registration, and the unlawful sale occurred within six months after the expiration or revocation.

(c) Customer information. Beginning July 1, 2011, a retailer who sells new covered electronic devices shall provide information to customers describing where and how they may recycle electronic waste and advising them of opportunities and locations for the convenient collection of electronic waste for the purpose of recycling. This requirement may be met by the posting of signs provided under the standard plan or a plan approved under section 7554 of this title that includes a warning that electronic waste shall not be disposed of in a solid waste facility and that provides a toll-free number or website address regarding proper disposal of covered electronic devices.

§ 7557. RECYCLER PROGRAM RESPONSIBILITY

(a)(1) Recycler registration. Beginning July 1, 2011, no person may recycle electronic waste at a facility located within the state unless that person has submitted a registration with the agency of natural resources on a form prescribed by the agency. A registration is effective upon receipt by the agency and is valid for a period not to exceed five years. An electronics recycling facility registered under this section is not required to obtain a solid waste certification pursuant to chapter 159 of this title. Registration information shall include:

(A) the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive electronic waste;

(B) evidence that the financial assurance requirements of section 6611 of this title have been satisfied.

(2) A registration shall be amended within ten days after a change to any information included in the registration submitted by the recycler under this section.

(b) *Recycler's reporting requirements. Beginning August 1, 2012, a recycler of electronic waste shall report by August 1, and annually thereafter, to the agency of natural resources on a form provided by the agency: the type of electronic waste collected; the total weight of electronic waste recycled during the preceding program year; and whether electronic waste was collected under the standard or an approved individual plan. In the annual report, the recycler shall certify that the recycler has complied with the electronic management guidelines developed under subdivision 7559(7) of this title.*

§ 7558. COLLECTOR AND TRANSPORTER PROGRAM RESPONSIBILITY

(a)(1) *Collector and transporter registration. Beginning July 1, 2011, no person may operate as a collector or transporter of electronic waste unless that person has submitted a registration with the agency of natural resources on a form prescribed by the agency. A registration is effective upon receipt by the agency and is valid for a period not to exceed five years. An electronics collector or transporter registered under this section shall not be required to obtain a solid waste certification or a solid waste hauler permit pursuant to chapter 159 of this title.*

(2) *A registration shall be amended within ten days after a change to any information included in the registration submitted by the collector under this section.*

(3) *Beginning August 1, 2012, a collector of electronic waste shall report by August 1, and annually thereafter, to the agency of natural resources on a form provided by the agency: the type of electronic waste collected; the total weight of electronic waste recycled during the preceding program year; and whether electronic waste was collected under the standard or an approved individual plan.*

(b) *Transporter reporting requirements. Beginning August 1, 2012, a transporter of electronic waste not destined for recycling in Vermont shall report annually by August 1 to the agency of natural resources the total pounds of electronic waste collected and whether electronic waste was collected under the standard or an approved individual plan.*

§ 7559. AGENCY OF NATURAL RESOURCES RESPONSIBILITIES

The agency of natural resources shall:

(1) *Adopt and administer the standard plan required under section 7552 of this title.*

(2) *Establish procedures for:*

(A) *the registration and certifications required under this chapter;*

and

(B) making the registrations and certifications required under this chapter easily available to manufacturers, retailers, and members of the public.

(3) Collect the data submitted under this chapter.

(4) Annually review data submitted under this chapter to determine whether any of the variables in the statewide recycling goal should be changed. The agency shall submit recommended changes to the senate and house committees on natural resources and energy.

(5) Beginning February 15, 2012, annually report to the senate and house committees on natural resources and energy, the house committee on ways and means, the senate committee on finance, and the senate and house committees on appropriations regarding the implementation of this chapter. Prior to submitting this report, the secretary shall share it with interested persons. For each program year, the report shall provide the total weight of electronic waste recycled. The report shall also summarize the various collection programs used to collect electronic waste; information regarding electronic waste that is being collected by persons outside a plan approved under this chapter; and information about electronic waste, if any, being disposed of in landfills in this state. The report shall include an accounting of the cost of the program, the governor's estimated budget for the program for the next relevant fiscal year, and a summary of the funding sources for the program. The agency may include in its report other information regarding the implementation of this chapter and may recommend additional incentives to increase the rate of recycling.

(6) Maintain a website that includes the names of manufacturers with current, valid registrations; the manufacturers' brands listed in registrations filed with the agency. The agency shall update the website information within 10 days of receipt of a complete registration.

(7) In consultation with interested parties, establish guidelines for the environmentally sound management of consumer electronics, including specific requirements for collectors, transporters, and recyclers.

(8) Identify approved transporters, collectors, and recyclers.

§ 7560. ADMINISTRATION OF ELECTRONIC WASTE RECYCLING PROGRAM

(a) The secretary of natural resources may contract for implementation and administration of the standard plan required under section 7552 of this title and, in so doing, shall comply with the agency of administration's current contracting procedures.

(b) In contracting for implementation and administration of the standard plan, the secretary shall review the costs incurred by similar electronic waste collection and recycling programs in other states. The secretary in his or her discretion may reopen the standard plan if bids received in response to a request for proposal exceed the average cost of collection and recycling incurred by similar electronic waste collection and recycling programs in other states.

§ 7561. OTHER RECYCLING PROGRAMS

A municipality or other public agency may not require covered entities to use public facilities to recycle their electronic waste to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their recycling obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program recycling electronic waste in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or recycling electronic waste, provided that those persons are registered as required under this chapter.

§ 7562. MULTISTATE IMPLEMENTATION

The agency of natural resources or a contracted entity under section 7560 of this title is authorized to participate in the establishment of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

§ 7563. LIMITATIONS

If a federal law or combination of federal laws takes effect that is applicable to all covered electronic devices sold in the United States and establishes a program for the collection and recycling or reuse of covered electronic devices that is applicable to all covered electronic devices, the agency shall evaluate whether the federal law provides a solution that is equal to or better than the program established under this chapter. The agency shall report its findings to the general assembly.

§ 7564. RULEMAKING

The secretary of natural resources may adopt rules to implement the requirements of this chapter.

Sec. 3. 10 V.S.A. § 6618 is amended to read:

§ 6618. WASTE MANAGEMENT ASSISTANCE FUND

(a) There is hereby created in the state treasury a fund to be known as the waste management assistance fund, to be expended by the secretary of the agency of natural resources. The fund shall have ~~two~~ three accounts: one for

solid waste management assistance ~~and~~, one for hazardous waste management assistance, and one for electronic waste collection and recycling assistance. The hazardous waste management assistance account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the secretary, the toxics use reduction fees under subsection 6628(j) of this title, and appropriations of the general assembly. In no event shall the amount of the hazardous waste tax which is deposited to the hazardous waste management assistance account exceed 40 percent of the annual tax receipts. The solid waste management assistance account shall consist of the franchise tax on waste facilities assessed under the provisions of subchapter 13 of chapter 151 of Title 32, and appropriations of the general assembly. The electronic waste collection and recycling account shall consist of the program and implementation fees required under section 7553 of this title. All balances in the fund accounts at the end of any fiscal year shall be carried forward and remain a part of the fund accounts, except as provided in subsection (e) of this section. Interest earned by the fund shall be deposited into the appropriate fund account. Disbursements from the fund accounts shall be made by the state treasurer on warrants drawn by the commissioner of finance and management.

* * *

(d) The secretary shall annually allocate from the fund accounts the amounts to be disbursed for each of the functions described in subsections (b) ~~and~~, (c), and (f) of this section. The secretary, in conformance with the priorities established in this chapter, shall establish a system of priorities within each function when the allocation is insufficient to provide funding for all eligible applicants.

* * *

Sec. 4. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following solid waste in landfills:

* * *

(8) Banned electronic devices. After January 1, 2011, computers; peripherals; computer monitors; cathode ray tubes; televisions; printers; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; wireless telephones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (as used to charge electronic devices).

Sec. 5. 10 V.S.A. § 8003(a) is amended to read:

(a) *The secretary may take action under this chapter to enforce the following statutes:*

* * *

(18) *10 V.S.A. chapter 164, relating to comprehensive mercury management; ~~and~~*

(19) 24 V.S.A. chapter 61, subchapter 10, relating to salvage yards; and

(20) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste.

Sec. 6. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(P) chapter 166 (collection and recycling of electronic waste).

Sec. 6a. SUNSET

10 V.S.A. § 7559(5) (ANR annual report to general assembly regarding electronic waste collection and recycling program) shall be repealed February 16, 2014.

Sec. 6b. ELECTRONIC WASTE COLLECTION AND RECYCLING PROGRAM FUNDING

(a) Beginning in fiscal year 2012, the governor's proposed budget for the agency of natural resources shall include a line item, including the source of the funds, for the electronic waste collection and recycling activities required under chapter 166 of Title 10.

(b) The secretary of natural resources may transfer funds within the waste management assistance fund from the solid waste management assistance account to the electronic waste collection and recycling assistance account to pay the initial costs incurred by the agency of natural resources in the first quarter of the program year beginning July 1, 2011, in implementing the electronic waste collection and recycling requirements of chapter 166 of Title 10. In no case shall the unencumbered balance of the solid waste management assistance account following a transfer under this subsection be less than \$300,000.00.

(c) On or before January 15, 2012, the secretary of natural resources shall reimburse the solid waste management account in full for all funds transferred from the solid waste management account to the environmental contingency fund under 10 V.S.A. § 6618(f) for implementation of the electronic waste collection and recycling program under chapter 166 of Title 10.

(d) On or before February 15, 2011, the secretary of natural resources shall provide the house and senate committees on natural resources, the house committee on ways and means, the senate committee on finance, and the senate and house committees on appropriations with a summary of the status of the secretary's development of the electronic waste collection and recycling standard plan under 10 V.S.A. § 7552 and of the status of any request for proposal to implement the standard plan.

Sec. 6c. ANR DISBURSEMENTS; APPROPRIATIONS

(a) ~~In fiscal year 2011,~~ In fiscal years 2011 and 2012, the secretary of natural resources may authorize disbursements from the electronic waste collection and recycling account within the waste management assistance fund for the purpose of paying the costs of administering and implementing the electronic waste collection program set forth under chapter 166 of Title 10.

(b) In addition to any other funds appropriated to the agency of natural resources in fiscal year 2011, there is appropriated from the general fund to the agency \$50,000.00 in fiscal year 2011 for the purpose of administering and implementing the electronic waste collection and recycling program under chapter 166 of Title 10.

Sec. 7. EFFECTIVE DATE

This act shall take effect upon passage.