

1 S.126

2 Introduced by Senator Westman

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; collection and recycling of electronic
6 waste; manufacturer clearinghouse

7 Statement of purpose of bill as introduced: This bill proposes to amend the
8 requirements for the collection and recycling of electronic waste in the State by
9 requiring manufacturers of covered electronic devices to submit a plan for
10 collection of electronic waste as part of a manufacturer's clearinghouse or
11 individually. The Agency of Natural Resources would no longer issue a
12 Standard Plan implemented by a contracted entity.

13 An act relating to the collection and recycling of electronic waste

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

15 Sec. 1. 10 V.S.A. Chapter 166 is amended to read:

16 CHAPTER 166. COLLECTION AND RECYCLING OF ELECTRONIC

17 DEVICES

18 § 7551. DEFINITIONS

19 As used in this chapter:

20 (1) "Agency" means the Agency of Natural Resources.

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(8) “Covered electronic device” means a computer, computer monitor, device containing a cathode ray tube, printer, or television from 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.

* * *

(10) “Electronic waste” means a computer, computer monitor, computer peripheral, device containing a cathode ray tube, printer, or television from a

1 covered entity. “Electronic waste” does not include any motor vehicle or any
2 part thereof; a camera or video camera; a portable or stationary radio; a
3 wireless telephone; a household appliance, such as a clothes washer, clothes
4 dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or
5 dishwasher; equipment that is functionally or physically part of a larger piece
6 of equipment intended for use in an industrial, library, research and
7 development, or commercial setting; security or antiterrorism equipment;
8 monitoring and control instruments or systems; thermostats; handheld
9 transceivers; a telephone of any type; a portable digital assistant or similar
10 device; a calculator; a global positioning system receiver or similar navigation
11 device; commercial medical equipment that contains a cathode ray tube, a
12 cathode ray tube device, a flat panel display, or similar video display that is not
13 separate from the larger piece of equipment; or other medical devices, as the
14 term “device” is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug,
15 and Cosmetic Act, as that section is amended from time to time.

16 (11) “Manufacturer” means a person who:

17 (A) manufactures or manufactured a covered electronic device under
18 its own brand or label for sale in the State;

19 (B) sells in the State under its own brand or label covered electronic
20 devices produced by another supplier;

1 (C) owns a brand that it licenses or licensed to another person for use
2 on a covered electronic device sold in the State;

3 (D) imports into the United States for sale in the State a covered
4 electronic device manufactured by a person without a presence in the United
5 States;

6 (E) manufactures covered electronic devices for sale in the State
7 without affixing a brand name; or

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

13 (12) “Manufacturer clearinghouse” means an entity that:

14 (A) prepares and submits a Standard Plan for manufacturers to the
15 Agency;

16 (B) oversees a manufacturer recycling program for electronic waste
17 on behalf of a group of two or more manufacturers cooperating with one
18 another to collectively establish and operate an electronic waste program for
19 the purpose of complying with the requirements of this chapter; and

20 (C) collectively represents at least 50 percent of total obligations of
21 manufacturers under this chapter for a program year.

1 (13) “Market share” means a “manufacturer’s market share” that shall
2 be the manufacturer’s percentage share of the total weight of covered
3 electronic devices sold in the State as determined by an estimate of the
4 aggregate total weight of the manufacturer’s covered electronic devices sold in
5 the State during the previous program year based on national sales data unless
6 the Secretary approves a manufacturer to use actual sales data.

7 ~~(13)~~(14) “Printer” means desktop printers, multifunction printer copiers,
8 and printer fax combinations taken out of service that are designed to reside on
9 a work surface and include various print technologies, including without
10 limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and
11 digital sublimation, and “multi-function” or “all-in-one” devices that perform
12 different tasks, including copying, scanning, faxing, and printing. “Printer”
13 does not include floor-standing printers, printers with an optional floor stand,
14 point of sale (POS) receipt printers, household printers such as a calculator
15 with printing capabilities or label makers, or nonstand-alone printers that are
16 embedded into products that are not covered electronic products.

17 ~~(14)~~(15) “Program year” means the period established by the Secretary
18 as the program year in the Plan required by section 7552 of this title.

19 ~~(15)~~(16) “Recycler” means a person who accepts electronic waste from
20 covered entities and collectors for the purpose of recycling. A person who
21 takes products solely for reuse, refurbishment, or repair is not a recycler.

1 ~~(16)~~(17) “Recycling” means the process of collecting and preparing
2 electronic wastes for use in manufacturing processes or for recovery of useable
3 materials followed by delivery of such materials for use. Recycling does not
4 include destruction by incineration, waste-to-energy incineration or other such
5 processes, or land disposal.

6 ~~(17)~~(18) “Retailer” means a person who sells, rents, or leases covered
7 electronic devices to a person in the State, through any means, including sales
8 outlets, catalogues, the telephone, the Internet, or any electronic means.

9 ~~(18)~~(19) “Sell” or “sale” means any transfer for consideration of title or
10 of the right to use by lease or sales contract of a covered electronic device to a
11 person in the State. “Sell” or “sale” does not include the sale, resale, lease, or
12 transfer of used covered electronic devices or a manufacturer’s or a
13 distributor’s wholesale transaction with a distributor or a retailer.

14 ~~(19)~~(20) “Television” means any telecommunications system or device
15 containing a cathode ray tube or other type of display system with a viewable
16 area of greater than four inches when measured diagonally that can broadcast
17 or receive moving pictures and sound over a distance and includes a television
18 tuner or a display device peripheral to a computer that contains a television
19 tuner.

20 ~~(20)~~(21) “Transporter” means a person that moves electronic waste from
21 a collector to either another collector or to a recycler.

1 § 7551a. MANUFACTURER CLEARINGHOUSE

2 (a) A manufacturer clearinghouse may take into account and incorporate
3 individual plans or operations of one or more manufacturers that are
4 participating in the manufacturer clearinghouse to satisfy the Standard Plan
5 requirements in section 7552.

6 (b) If a manufacturer clearinghouse allocates responsibility to
7 manufacturers for manufacturers' transportation and recycling of covered
8 electronic devices from covered entities during a program year as part of a
9 manufacturer electronic waste program plan, the manufacturer clearinghouse
10 shall identify the allocation methodology in the plan submitted to the Agency
11 under section 7552 of this title for review and approval. Any allocation of
12 responsibility among manufacturers for the collection of covered electronic
13 devices shall be in accordance with the allocation methodology established
14 under section 7552a of this title.

15 (c) A manufacturer clearinghouse shall have no authority to enforce
16 manufacturer compliance with the requirements of this chapter, including
17 compliance with the allocation methodology set forth in a manufacturer
18 clearinghouse Standard Plan, but shall, upon prior notice to the manufacturer,
19 refer any potential non-compliance to the Agency. A manufacturer
20 clearinghouse may develop and implement policies and procedures that
21 exclude from participation in the manufacturer clearinghouse any

1 manufacturers found by the Agency or a court of competent jurisdiction to
2 have failed to comply with the requirements of this chapter.

3 § 7552. STANDARD ELECTRONIC WASTE RECYCLING PLAN

4 (a) Standard Plan ~~adoption; review and approval~~. Beginning January 1,
5 ~~2014~~ 2022, the Secretary shall ~~adopt~~ review a plan submitted by a
6 manufacturer clearinghouse for the collection and recycling of all electronic
7 waste in the State. In ~~developing the~~ reviewing a Plan for approval, the
8 Secretary shall evaluate the clearinghouse plan's proposed electronic waste
9 collection opportunities and services against existing electronic waste
10 collection opportunities and services in each county to determine whether such
11 opportunities and services are adequate. In making an adequacy
12 determination, the Secretary shall consider the geography, population, ~~and~~
13 population density of each county, and projected vehicle miles travelled and
14 associated greenhouse gas emissions. If, after completion of an adequacy
15 review, the Secretary determines that the collection opportunities in a county
16 are:

17 (1) Inadequate, the Secretary may require ~~additional~~ a manufacturer
18 clearinghouse to add collection activities in that county. Additional collection
19 activities may include additional collection facilities, ~~collection events~~, or other
20 collection activities identified by the Secretary as necessary to achieve the
21 Statewide statewide recycling goal and greenhouse gas emissions goals. If the

1 Secretary requires ~~additional~~ any changes in collection activities, the Secretary
2 shall consider, as one of the criteria reviewed in selecting additional collection
3 activities, the cost-effectiveness of the additional collection activities in
4 achieving the objective of convenient service while minimizing greenhouse gas
5 emissions.

6 (2) Adequate, after taking into consideration greenhouse gas emissions
7 under the Plan, and that additional collection opportunities are not required.

8 (b) Standard Plan minimum requirements. The Standard Plan shall:

9 (1) site at least three permanent facilities in each county for the
10 collection of electronic waste from covered entities, unless the Secretary
11 determines that existing or proposed collection opportunities are not required,
12 but in no case shall the Secretary reduce the number of permanent facilities
13 below one;

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

17 (3) for the program year starting July 1, 2022, include at least 50
18 additional sites beyond the number of collection sites required under
19 subdivisions (1) and (2) of this subsection;

20 (4) require electronic waste collection facilities to accept electronic
21 waste at no cost to covered entities;

1 ~~(4)~~(5) ensure that each recycler used in implementing the Plan complies
2 with the recycling standards established under section 7559 of this title;

3 ~~(5)~~(6) ensure that during Plan implementation a public information and
4 outreach effort takes place to inform consumers about how to recycle their
5 electronic waste at the end of the product's life;

6 ~~(6)~~(7) require electronic waste collection facilities to be staffed, open on
7 an ongoing basis, and open to the public at a frequency needed to meet the
8 needs of the area being served;

9 ~~(7)~~(8) prohibit a collection facility from refusing to accept electronic
10 waste delivered to the facility for recycling from a covered entity;

11 (9) fairly compensate collectors for providing collection services;

12 (10) describe how the Plan will provide service to covered entities;

13 (11) describe the processes and methods used to recycle electronic
14 waste, including a description of the processing that will be used and the
15 facility location;

16 (12) use only third party certified recyclers; and

17 (13) include a public information campaign to inform consumers about
18 how to recycle electronic waste at the end of the product's life.

19 (c) Plan evaluation and term. The Secretary shall annually review and
20 ~~analyze the~~ approve Standard Plan Plans submitted by a manufacturer
21 clearinghouse to determine if implementation of the Standard Plan achieves the

1 statewide collection and recycling goal set forth under section 7555 of this
2 title. The Secretary may ~~modify the~~ disapprove a plan based upon the results
3 of that review.

4 (d) ~~Plan term. The Secretary shall revise and adopt the standard plan every~~
5 ~~five years.~~ [Repealed.]

6 (e) Public review and consultation. Prior to the annual approval ~~or~~
7 ~~modification of the a~~ Standard Plan, the Agency shall make the proposed
8 Standard Plan provided by a manufacturer clearinghouse available for public
9 review and comment for at least 30 days. The Agency shall consult with
10 interested persons, including manufacturers, recyclers, collectors, retailers,
11 solid waste districts, and environmental groups.

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

15 (g) Annual report. Beginning August 1, 2023, a manufacturer
16 clearinghouse shall submit a report to the Secretary by August 1 and annually
17 thereafter that includes the following:

18 (1) the type of electronic waste collected;

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

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

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

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

5 § 7552a. MANUFACTURER CLEARINGHOUSE; ALLOCATION OF
6 FINANCIAL RESPONSIBILITY

7 (a) As used in this section:

8 (1) “Adjusted total proportional responsibility” means the percentage
9 calculated for each participating manufacturer for a program year under
10 subsection (f) of this section.

11 (2) “Market share” means the percentage that results from dividing:

12 (A) the product of the total weight reported for a covered electronic
13 device category by a manufacturer, for the calendar year two years before the
14 applicable program year multiplied by the population adjustment factor for that
15 year; by

16 (B) the product of the total weight reported for that covered
17 electronic device category by all manufacturers, for the calendar year two
18 years before the applicable program year multiplied by the population
19 adjustment factor for that year.

1 (3) “Participating manufacturer” means a manufacturer that a
2 manufacturer clearinghouse has listed, pursuant to subsection (c) of this
3 Section, as a participant in the manufacturer clearinghouse for a program year.

4 (4) “Population adjustment factor” means the percentage that results
5 when:

6 (A) the population of Vermont, as reported in the most recent federal
7 decennial census, is divided; by

8 (B) the population of the United States, as reported in the most recent
9 federal decennial census.

10 (5) “Return share” means the percentage, by weight, of each covered
11 electronic device category that is returned to the program collection sites and
12 one-day collection events operated by or on behalf of either a manufacturer
13 clearinghouse or one or more of its participating manufacturers during the
14 calendar year two years before the applicable program year, as reported to the
15 Secretary under section 7552 of this title; except that, for program year 2023
16 and program year 2024, “return share” means the percentage, by weight, of
17 each covered electronic device category that is estimated by the manufacturer
18 clearinghouse to be returned to those sites and events during the applicable
19 program year, as reported to the Secretary under subsection (b) of this section.

1 (6) “Unadjusted total proportional responsibility” means the percentage
2 calculated for each participating manufacturer under subsection (e) of this
3 section.

4 (b) By March 1, 2022, a manufacturer clearinghouse shall provide the
5 Secretary with a statement of the return share for each covered electronic
6 device category for program year 2023, and by March 1 of each subsequent
7 year, a manufacturer clearinghouse shall provide the Secretary with a statement
8 of the return share for each covered electronic device category for the next
9 program year.

10 (c) If a manufacturer clearinghouse submits to the Secretary a plan under
11 section 7552 of this title, the manufacturer clearinghouse shall include in the
12 plan a list of manufacturers that have agreed to participate in the manufacturer
13 clearinghouse for the upcoming program year.

14 (d)(1) A manufacturer clearinghouse shall submit to the Secretary,
15 consistent with the calculation in subsection (f) of this section, a proposed
16 statement of the unadjusted total proportional responsibility and adjusted total
17 proportional responsibility of each of its participating manufacturers for the
18 upcoming program year by June 1 of the prior year.

19 (2) In providing the Secretary with this proposed statement, a
20 manufacturer clearinghouse shall, after establishing written policies and
21 providing participating manufacturers with notice of these policies, adjust

1 participating manufacturer responsibility based on superior environmental
2 attributes of the covered electronic device or materials used in the covered
3 electronic device. In no case shall credit for superior environmental
4 performance result in reductions of more than 50 percent of any individual
5 manufacturer responsibility.

6 (e) By November 1, 2022 and annually thereafter, the Secretary shall
7 provide a manufacturer clearinghouse with a final statement of the unadjusted
8 total proportional responsibility and adjusted total proportional responsibility
9 of each of its participating manufacturers for the upcoming program year.

10 (f) For each program year, the Department shall calculate the unadjusted
11 total proportional responsibility of each participating manufacturer as follows:

12 (1) for each covered electronic device category, the Department shall
13 multiply:

14 (A) the participating manufacturer's market share for the covered
15 electronic device category; by

16 (B) the return share for the covered electronic device category, to
17 arrive at the category-specific proportional responsibility of the participating
18 manufacturer for the covered electronic device category.

19 (2) The Secretary shall, for each participating manufacturer, sum the
20 category-specific proportional responsibilities of the participating

1 manufacturer calculated under subdivision (1) of this subsection to arrive at the
2 participating manufacturer's unadjusted total proportional responsibility.

3 (g) If the sum of all unadjusted total proportional responsibilities of a
4 manufacturer clearinghouse's participating manufacturers for a program year
5 accounts for less than 100 percent of the return share for that year, the
6 Secretary shall divide the unallocated return share among participating
7 manufacturers in proportion to their unadjusted total proportional
8 responsibilities to arrive at the adjusted total proportional responsibility for
9 each participating manufacturer.

10 (h) A manufacturer may use retail collection sites to satisfy some or all of
11 the manufacturer's responsibilities, including the manufacturer's transportation
12 and recycling of collected residential and other covered electronic devices
13 pursuant to any allocation methodology established under this chapter.
14 Nothing in this chapter shall prevent a manufacturer from using retail
15 collection sites to satisfy any percentage of the manufacturer's total
16 responsibilities, including the manufacturer's transportation and recycling of
17 collected residential and other covered electronic devices pursuant to any
18 allocation methodology established under this chapter or by rule.

19 § 7552b. PUBLIC REPORTING

20 Annually, the Secretary shall post on the website of the Agency the
21 information it receives pursuant to subdivision 7552(g) of this title showing the

1 amounts of residential and other covered electronic devices being collected and
2 recycled in each county in each program year.

3 § 7552c. ANTITRUST

4 A manufacturer or manufacturer clearinghouse acting in accordance with
5 the requirements of this chapter may negotiate, enter into contracts with, or
6 conduct business with each other and with any other entity developing,
7 implementing, operating, participating in, or performing any other activities
8 directly related to a manufacturer electronic waste program approved under
9 this chapter, and the manufacturer, manufacturer clearinghouse, and any entity
10 developing, implementing, operating, participating in, or performing any other
11 activities related to a manufacturer electronic waste program approved under
12 this chapter are not subject to damages, liability, or scrutiny under federal
13 antitrust law or the Vermont Antitrust Act, regardless of the effects of their
14 actions on competition. The supervisory activities described in this chapter are
15 sufficient to confirm that activities of the manufacturers, manufacturer
16 clearinghouse, and any entity developing, implementing, operating,
17 participating in, or performing any other activities related to a manufacturer
18 electronic waste program that is approved pursuant to 7552 of this title are
19 authorized and actively supervised by the State.

1 § 7553. SALE OF COVERED ELECTRONIC DEVICES;

2 MANUFACTURER REGISTRATION

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

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

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

9 (B) beginning July 1, 2011 and annually thereafter, if the
10 manufacturer is covered under the Standard Plan, ~~the manufacturer has paid~~
11 ~~the fee required by subsection (h) of this section~~ submitted by a manufacturer
12 clearinghouse or is opting out of a Standard Plan under section 7554 of this
13 title; and

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

17 (b) Manufacturer registration requirements.

18 (1) The manufacturer shall file a registration form with the Secretary.

19 The Secretary shall provide the registration form to a manufacturer. The

20 registration form shall include:

1 (A) A list of the manufacturer's brands of covered electronic devices
2 offered for sale by the manufacturer in this State.

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

5 (C) Beginning July 1, 2011 and annually thereafter, a certification
6 that the manufacturer is seeking coverage under ~~the~~ a manufacturer
7 clearinghouse Standard Plan set forth under subsection (a) of this section or,
8 under a plan approved under section 7554 of this title, is opting out of the
9 Standard Plan.

10 (D) An estimate of the aggregate total weight of the manufacturer's
11 covered electronic devices sold during the previous program year based on
12 national sales data. A manufacturer shall submit with the report required under
13 this subsection (b) a description of how the estimate was calculated. The data
14 submitted under this subdivision (1)(D) shall be considered a trade secret for
15 the purposes of 1 V.S.A. § 317(c)(9). The Agency also may receive data for
16 this purpose from a multi-state entity approved by the Secretary.

17 (2) A renewal of a registration without changes may be accomplished
18 through notifying the Agency of Natural Resources on a form provided by the
19 Agency.

20 (c) Registration prior to sale. A manufacturer who begins to sell or offer
21 for sale covered electronic devices and has not filed a registration under this

1 section or section 7554 of this title shall submit a registration to the Agency of
2 Natural Resources within 10 days of beginning to sell or offer for sale covered
3 electronic devices.

4 (d) Amendments to registration. A registration shall be amended within 10
5 days after a change to any information included in the registration submitted
6 by the manufacturer under this section.

7 (e) Effective date of registration. A registration is effective upon receipt by
8 the Agency of Natural Resources of a complete registration form and payment
9 of fees required by this section. Registration under this chapter shall be
10 renewed annually.

11 (f) Agency review of registration application. The Agency of Natural
12 Resources shall notify the manufacturer of any required information that is
13 omitted from the registration. Upon receipt of a notification from the Agency,
14 the manufacturer shall submit a revised registration providing the information
15 noted by the Agency.

16 (g) Registration fee.

17 (1) Each manufacturer of a covered electronic device registered under
18 this section shall pay to the Secretary a fee:

19 (A) For the program year beginning July 1, 2010, for manufacturers
20 who sell in Vermont ~~no~~ not more than 100 covered electronic devices, the fee
21 shall be \$1,250.00, and for all other manufacturers, the fee shall be \$5,000.00.

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

5 (2) The fees collected under this subsection shall be deposited into the
6 Electronic Waste Collection and Recycling Account of the Waste Management
7 Assistance Fund.

8 (h) ~~Implementation fee.~~

9 ~~(1) Beginning July 1, 2011, each manufacturer that seeks coverage~~
10 ~~under the Standard Plan shall pay to the Secretary an implementation fee that~~
11 ~~shall be assessed on a quarterly basis and that shall be determined by~~
12 ~~multiplying the manufacturer's market share by the prior quarter's cost of~~
13 ~~implementing the electronic waste collection and recycling program adopted~~
14 ~~under the Standard Plan. For purposes of this section, the Electronic Waste~~
15 ~~and Recycling Program includes collection, transportation, recycling, and the~~
16 ~~reasonable cost of contract administration.~~

17 ~~(2) The fee collected under this subsection shall be deposited into the~~
18 ~~Electronic Waste Collection and Recycling Account of the Waste Management~~
19 ~~Assistance Fund.~~

20 ~~(3) At the end of each program year, the Secretary shall review the total~~
21 ~~costs of collection and recycling for the program year and shall reappportion the~~

1 ~~implementation fee assessed under this subsection to accurately reflect the~~
2 ~~actual cost of the Program and the manufacturer's market share of covered~~
3 ~~electronic devices sold in the State during the program year. [Repealed.]~~

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

7 § 7554. MANUFACTURER OPT-OUT INDIVIDUAL PLAN

8 (a) Opt-out of Standard Plan. ~~A~~ An individual manufacturer ~~or group of~~
9 ~~manufacturers~~ may elect not to seek coverage under ~~the~~ a manufacturer
10 clearinghouse Standard Plan established under section 7552 of this title,
11 provided that the manufacturer or group of manufacturers complies with the
12 requirements of subdivisions 7553(a)(1)-(3) of this title and submits an
13 individual plan to the Secretary for approval that:

14 (1) provides for each county the number of collection methods identified
15 in the Standard Plan adopted under section 7552 of this title;

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

19 (A) seek to use businesses within the State, including retailers,
20 charities, processors, and collection and transportation services, to fulfill its
21 program goal under this section;

1 (B) fairly compensate collectors for providing collection services;

2 and

3 (C) fairly compensate recyclers for providing recycling services;

4 (3) describes how the plan will provide service to covered entities;

5 (4) describes the processes and methods used to recycle electronic

6 waste, including a description of the processing that will be used and the

7 facility location;

8 (5) documents the audits of each recycler used in the Plan and

9 compliance with recycling standards established under section 7559 of this

10 title;

11 (6) describes the accounting and reporting systems that will be

12 employed to track progress toward the Plan's equivalent share;

13 (7) includes a timeline describing start-up, implementation, and progress

14 toward milestones with anticipated results; and

15 (8) includes a public information campaign to inform consumers about

16 how to recycle their electronic waste at the end of the product's life.

17 (b) Manufacturer program goal. An individual plan submitted under this

18 section shall be implemented to ensure satisfaction of the manufacturer's

19 electronic waste program goal. The Electronic Waste Recycling Program goal

20 for a manufacturer that submits a plan under this section shall be the product of

21 the relevant statewide recycling goal set forth in subsection 7555(a) of this title

1 multiplied by the manufacturer's market share of covered electronic devices.

2 A manufacturer that submits a plan under this section may only count
3 electronic waste received from covered entities toward the Program goal set
4 forth in this section.

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

9 (d) Public review. Before approving an individual plan under this section,
10 the Secretary shall proceed in accordance with chapter 170 of this title.

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

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

21 (1) the type of electronic waste collected;

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

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

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

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

8 (g) Parity surcharge.

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

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

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

15 (2) The surcharge shall be calculated by multiplying the average per
16 pound of cost to the Secretary for the current program year to implement the
17 Standard Plan plus 20 percent by the number of additional pounds of electronic
18 waste that should have been accepted by the manufacturer. The surcharges
19 collected under this section shall be deposited into the Electronic Waste
20 Collection and Recycling Account of the Waste Management Assistance Fund
21 and used to offset the costs of Program implementation.

1 (h) Effective date of plan approval. A plan submitted under this section
2 shall not be approved until the Secretary determines that the plan will provide a
3 functionally equivalent level of electronic waste collection and recycling as ~~the~~
4 a manufacturer clearinghouse Standard Plan and that all the requirements of
5 this section have been met.

6 (i) Amendments to plan. An amendment to an individual plan approved
7 under this section shall not take effect until approved by the Secretary.

8 (j) Opt-in to Standard Plan. At the completion of any program year, a
9 manufacturer approved under this section may seek coverage under ~~the a~~
10 manufacturer clearinghouse Standard Plan adopted under section 7552 of this
11 title.

12 * * *

13 § 7559. AGENCY OF NATURAL RESOURCES RESPONSIBILITIES

14 The Agency of Natural Resources shall:

15 (1) ~~Adopt and administer the~~ Review and approve a manufacturer
16 clearinghouse Standard Plan required under section 7552 of this title.

17 (2) Establish procedures for:

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

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

21 (3) Collect the data submitted under this chapter.

1 (4) Annually review data submitted under this chapter to determine
2 whether any of the variables in the statewide recycling goal should be changed.
3 The Agency shall submit recommended changes to the Senate Committee on
4 Natural Resources and Energy and the House Committee on Natural
5 Resources, Fish, and Wildlife.

6 (5) Refer complaints and other operational issues concerning collection
7 activities to the manufacturer clearinghouse for resolution.

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

12 (7) In consultation with interested parties, and where widely adopted
13 third party certification systems are not available, establish guidelines for the
14 environmentally sound management of consumer electronics, including
15 specific requirements for collectors, transporters, and recyclers.

16 (8) ~~Identify approved~~ Review and approve proposed transporters,
17 collectors, and recyclers in a manufacturer clearinghouse Standard Plan and
18 any individual manufacturer plan.

1 § 7560. ADMINISTRATION OF ELECTRONIC WASTE RECYCLING
2 PROGRAM

3 ~~(a) The Secretary of Natural Resources may contract for implementation~~
4 ~~and administration of the Standard Plan required under section 7552 of this~~
5 ~~title and, in so doing, shall comply with the Agency of Administration's~~
6 ~~current contracting procedures.~~

7 ~~(b) In contracting for implementation and administration of the Standard~~
8 ~~Plan, the Secretary shall review the costs incurred by similar electronic waste~~
9 ~~collection and recycling programs in other states. The Secretary in his or her~~
10 ~~discretion may reopen the Standard Plan if bids received in response to a~~
11 ~~request for proposal exceed the average cost of collection and recycling~~
12 ~~incurred by similar electronic waste collection and recycling programs in other~~
13 ~~states. [Repealed.]~~

14 * * *

15 § 7562. MULTISTATE IMPLEMENTATION

16 The Agency of Natural Resources ~~or a contracted entity under section 7560~~
17 ~~of this title~~ is authorized to ~~participate~~ encourage multi-state implementation of
18 a manufacturer clearinghouse and participation in the establishment of a
19 ~~regional~~ any multistate organization or compact to assist in carrying out the
20 requirements of this chapter.

21 * * *

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on January 1, 2022.