

16 (4) a manufacturer or agent of the manufacturer that collects, con-
17 solidates and transports covered electronic devices for recycling
18 from consumers, businesses, institutions and other generators; and

19 (5) any entity that collects, handles, consolidates and transports
20 covered electronic devices.

21 “Consumer”, a purchaser or owner of a covered electronic device,
22 to which also includes a business, corporation, limited partnership,
23 nonprofit organization or governmental entity; but shall not include
24 an entity involved in a wholesale transaction between a distributor
25 and retailer or a manufacturer who purchases specialty or medical
26 electronic equipment that is a covered electronic device;

27 “Covered electronic device”, a cathode ray tube, cathode ray tube
28 device, flat panel screen or any other similar video display device
29 with a screen size that is greater than four inches in size measured
30 diagonally with an output surface that displays, or is capable of dis-
31 playing, moving graphical images or a visual representation of
32 image sequences or pictures, showing a number of quickly changing
33 images on a screen in fast succession to create the illusion of motion,
34 including, if applicable, a device that is an integral part of the dis-
35 play, in that it cannot be easily removed from the display by the con-
36 sumer, that produces the moving image on the screen but does not
37 include any of the following:—

38 (a) a video display device that is a part of a motor vehicle, as
39 defined in Chapter 90 of the General Laws, or any component part
40 of a motor vehicle assembled by, or for, a vehicle manufacturer or
41 franchised dealer, including replacement parts for use in a motor
42 vehicle,

43 (b) a covered electronic device that is functionally or physically a
44 part of a larger piece of equipment designed and intended for use in
45 an industrial, commercial, or medical setting, including diagnostic,
46 monitoring or control equipment,

47 (c) a video display device that is contained within a clothes
48 washer, clothes dryer, refrigerator, refrigerator and freezer,
49 microwave oven, conventional oven or range, dishwasher, room air
50 conditioner, dehumidifier, or air purifier.

51 “Covered electronic waste”, a covered electronic device that is
52 discarded or disposed.

53 “Covered electronic waste recycler”, any of the following:—

54 (1) A person who engages in the manual or mechanical separation
55 of covered electronic devices to recover components and commodi-
56 ties contained therein for the purpose of reuse or recycling;

57 (2) A person who changes the physical or chemical composition
58 of a covered electronic device by deconstructing, size reduction,
59 crushing, cutting, sawing, compacting, shredding or refining for pur-
60 poses of segregating components, for purposes of recovering or
61 recycling those components, and who arranges for the transport of
62 those components to an end user;

63 (3) A manufacturer who meets any of the conditions established
64 under this Chapter for the collection or recycling of covered elec-
65 tronic waste;

66 “Covered electronic waste recycling fee” the fee imposed under
67 this Chapter.

68 “Department”, the department of environmental protection of the
69 Commonwealth.

70 “Distributor”, a person who sells a covered electronic device to a
71 retailer.

72 “Electronic waste recovery payment”, an amount established and
73 paid by the department pursuant to this act.

74 “Electronic waste recycling payment”, a payment made by the
75 department to an authorized collector of covered electronic waste
76 under this Chapter.

77 “Manufacturer”,:— (1) a person who manufactures a covered
78 electronic device sold in the Commonwealth, or (2) a person who
79 sells a covered electronic device in this Commonwealth under a per-
80 son’s brand name.

81 “Medical electronic equipment”, includes radiotherapy equip-
82 ment, cardiology equipment, dialysis equipment, pulmonary ventila-
83 tors, nuclear medicine equipment, laboratory equipment for in-vitro
84 diagnosis, analyzers and freezers.

85 “Retailer”, a person who sells a covered electronic device in the
86 Commonwealth to a consumer but who did not manufacture the
87 device, and includes a manufacturer of a covered electronic device
88 who sells the covered electronic device directly to a consumer
89 through any means, including transactions conducted through sales
90 outlets, catalogs or the internet or any other similar electronic means,
91 but does not include a sale that is a wholesale transaction with a dis-
92 tributor or retailer.

93 “Sell” or “sale” means any transfer for consideration of title or of
94 the right to use, by lease or sales contract, including transactions
95 conducted through sales outlets, catalogs or the internet, or any other
96 similar electronic means, but does not include a wholesale transac-
97 tion with a distributor or a retailer.

98 “Specialty electronic equipment”, includes smoke detectors,
99 heating regulators and thermostats.

1 SECTION 2. As used in this section, the following words and
2 phrases shall have the following meanings unless the context clearly
3 indicates otherwise:—

4 “Computer”, a programmable electronic machine that performs
5 high-speed mathematical or logical operations or that assembles,
6 stores, correlates or otherwise processes information.

7 “Electronic item containing an intact or broken cathode ray tube”,
8 an electronic item containing a cathode ray tube includes a televi-
9 sion, computer monitor or any other cathode ray tube monitor or dis-
10 play device;

11 “Electronics”, devices that utilize electrons and electric circuits,
12 including household appliances, televisions, recording and playing
13 devices for music or video tapes, compact discs, and digital tech-
14 nology.

1 SECTION 3. (a) On and after July 1, 2008, a covered electronic
2 waste recycling fee shall be imposed upon the first sale in the Com-
3 monwealth of a covered electronic device to a consumer by a
4 retailer.

5 (b) A retailer that sells a covered electronic device to a consumer
6 shall collect a fee for each covered electronic device sold by the
7 retailer in the following amounts:—

8 (1) six dollars for each covered electronic device with a screen
9 size of less than 15 inches measured diagonally;

10 (2) eight dollars for each covered electronic device with a screen
11 size greater than or equal to 15 inches but less than 35 inches mea-
12 sured diagonally;

13 (3) ten dollars for each covered electronic device with a screen
14 size greater than or equal to 35 inches measured diagonally;

15 (c) The electronic waste recycling fee collected under this section
16 shall be transmitted to the department in a manner determined by the

17 department. The covered electronic waste recycling fees shall be
18 deposited in The Electronic Waste Recovery and Recycling Fund.

19 (d) A retailer selling a covered electronic device may retain 3 per-
20 cent of the covered electronic waste recycling fee as reimbursement
21 for any costs associated with the collection of the fee.

22 (e) On and after July 1, 2008, and at least once every two years
23 thereafter, the department shall review, at a public hearing, the cov-
24 ered electronic waste recycling fee and shall make any adjustments
25 to the fee to ensure that there are sufficient revenues in the account
26 to fund the covered electronic waste recycling program established
27 under this Chapter. The department shall base any adjustment of the
28 covered electronic waste recycling fee on both of the following fac-
29 tors:—

30 (1) The sufficiency, and any surplus, of revenues in the account to
31 fund the collection, consolidation and recycling of 100 percent of the
32 covered electronic waste that is projected to be recycled.

33 (2) The sufficiency of revenues in the account for the department
34 to administer, enforce and promote the program established pursuant
35 to this act, plus a prudent reserve not to exceed 5 percent of the
36 amount in the account.

1 SECTION 4. (a) On and after July 1, 2008, it shall be unlawful to
2 sell a covered electronic device to a consumer in this Common-
3 wealth unless the department determines that the manufacturer of
4 that covered electronic device demonstrates compliance with this
5 Chapter.

6 (b) On and after January 1, 2008, a person shall not sell or offer
7 for sale in this Commonwealth a covered electronic device unless
8 the device is labeled with the name of the manufacturer or the manu-
9 facturer's brand label so that it is readily visible.

10 (c) On or before July 1, 2008, and at least once annually thereafter
11 as determined by the department, each manufacturer of a covered
12 electronic device shall:—

13 (1) submit to the department a report that includes all of the
14 following information;

15 (i) an estimate of the number of covered electronic devices sold
16 by the manufacturer during the previous year;

17 (ii) a baseline or set of baselines that show the total estimated
18 amounts of mercury, cadmium, lead, hexavalent chromium, PBDEs

19 and PBBs used in covered electronic devices manufactured by the
20 manufacturer in that year and the reduction in the use of those haz-
21 ardous materials from the previous year;

22 (iii) a baseline or set of baselines that show the total estimated
23 amount of recycled materials contained in covered electronic devices
24 sold by the manufacturer in that year and the increase in the use of
25 those recyclable materials from the previous year;

26 (iv) a baseline or a set of baselines that describe any efforts to
27 design covered electronic devices for recycling and goals and plans
28 for further increasing design for recycling.

29 (2) Make information available to consumers that describes where
30 and how to return, recycle and dispose of the covered electronic
31 device and opportunities and locations for the collection or return of
32 the device through the use of a toll-free telephone number, Internet
33 website, information labeled on the device, information included in
34 the packaging or information accompanying the sale of a covered
35 electronic device.

36 (d) Any information submitted to the department under (a) that is
37 proprietary in nature or a trade secret shall be subject to protection
38 under all laws and regulations governing the information.

39 (e) On or before April 1, 2008, a manufacturer shall inform the
40 retailer if a covered electronic device sold by that manufacturer is
41 subject to the covered electronic waste recycling fee established
42 under this chapter.

1 SECTION 5. (a) A political subdivision or other public agency
2 may not adopt, implement or enforce an ordinance, resolution, regu-
3 lation or rule requiring a consumer, manufacturer or retailer to
4 recycle covered electronic devices or imposing a covered electronic
5 waste recycling fee upon a manufacturer, retailer or consumer unless
6 expressly authorized under this chapter.

7 (b) Nothing in this section shall prohibit the adoption, implemen-
8 tation or enforcement of any local ordinance, resolution, regulation
9 or rule governing curbside or drop-off recycling programs operated
10 by or under a contract with a political subdivision or other public
11 agency, including any action relating to fees for these programs.
12 Nothing in this section shall be construed to affect any contract,
13 franchise, permit, license or other arrangement regarding the collec-
14 tion or recycling of solid waste or household hazardous waste.

15 (c) The following civil penalties may be imposed by the depart-
16 ment:—

17 (1) an amount not to exceed \$5,000 per offense for each sale of a
18 covered electronic device for which a covered electronic waste recy-
19 cling fee has not been paid under this chapter.

20 (2) A civil penalty in an amount not to exceed \$25,000 against
21 manufacturers for failure to comply with this chapter, except as oth-
22 erwise provided in subsection (a).

1 SECTION 6. (a) The department shall deposit all fees and fines
2 collected under this Chapter into the fund. The funds in the account
3 may be expended by the department for the following purposes:—

4 (1) to make electronic waste recovery payments to an authorized
5 collector of covered electronic waste pursuant to under the chapter.

6 (2) to make electronic waste recycling payments to covered elec-
7 tronic waste recyclers of covered electronic waste.

8 (3) to provide for costs of the department to administer this
9 chapter.

10 (b) any interest earned upon funds in the fund shall be deposited
11 in the fund for expenditure under this chapter.

12 (c) Not more than 1 percent of the funds annually deposited in the
13 account shall be expended for the purposes of establishing the public
14 information program to educate the public in the hazards of
15 improper covered electronic device storage and disposal and on the
16 opportunities to recycle covered electronic devices.

17 (d) The department may not provide any payment for covered
18 electronic devices unless the materials will be handled in compliance
19 with all statutes and regulations regarding the export of hazardous
20 waste. No payment may be made for covered electronic devices
21 exported to any country where the export or import of hazardous
22 waste is prohibited.

23 (e) The department may not provide any payment for covered
24 electronic waste unless the materials are handled in compliance with
25 all statutes and regulations regarding the export of hazardous wastes.

1 SECTION 7. Chapter 29 of the General Laws is hereby amended
2 by adding the following new section.

3 Section 29:2000. There shall be set up on the books of the Com-
4 monwealth a separate fund known as the Electronic Waste Recovery

5 and Recycling Fund. There shall be credited to the fund all revenues
6 or other financing sources directed to the fund by appropriation, and
7 the monies collected by retailers under Chapter 21N. Monies cred-
8 ited to the fund may be expended by the department of environ-
9 mental protection without further appropriation, for the
10 administration of Chapter 21N.