

**2009 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB107)**

Received: **04/27/2009**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Miller (608) 266-9170**

By/Representing: **John Anderson**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - solid haz. waste**  
**Environment - recycling**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Miller@legis.wisconsin.gov**

Carbon copy (CC:) to: **John.Stolzenberg@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Electronic waste recycling with several changes

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe 04/30/2009	kfollett 04/30/2009		_____			
/P1			mduchek 05/01/2009	_____	cduerst 05/01/2009		
/1	btradewe 05/04/2009	kfollett 05/04/2009	phenry 05/04/2009	_____	lparisi 05/04/2009	lparisi 05/04/2009	

FE Sent For:

**<END>**

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/?	btradewe 04/30/2009	kfollett 04/30/2009		_____			
/P1		11kif 5/4	mduchek 05/01/2009	5/4 ph	cdurst 05/01/2009		
FE Sent For:			5/4 ph	<END>			

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/?	btradewe	1P/kjf 4/30 5/1	M 4/30	JAM 4/30 M JF/S 5/1			
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FE Sent For:

<END>

(2 rounds of changes)

4/17/09 Meeting with John Anderson, John Stokenberg, Cynthia Moore and others from DNR, Toral Jhal

- ✓ 1. Increase screen size in definition of video display devices to 7 inches
- ✓ 2. Have solid waste facility operator obligation (p. 5, line 12) only apply to consumer video display devices
- ✓ 3. To enable recyclers to have an idea of how much needs to be collected/recycled in a program year, have manufacturers report sales for program year that began 24 months before beginning of program year in which report is made (with their registration).
- ✓ 4. Recycling credit carryover (p. 14, line 23, to p. 15, line 2, should be based on target recycling weight, not excess pounds.
- ✓ 5. Sub. (8)(c)4 (p. 20, lines 11 to 18) - recyclers only have to provide information to manufacturers with whom they contract and only information about materials recycled under the program.

RBT

✓ 4/27/09 Per John S. - also add manufacturer access to sub (8)(c) 6. - as in 4.

**Tradewell, Becky**

---

**From:** Moore, Cynthia G - DNR [Cynthia.Moore@Wisconsin.gov]  
**Sent:** Wednesday, April 29, 2009 2:27 PM  
**To:** Tradewell, Becky; Anderson, John  
**Cc:** Bangert, Suzanne A - DNR; Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Stolzenberg, John  
**Subject:** RE: SB 107- suggested changes to push back registration dates by 3 months

✓ It would make sense to push it back by 3 months also- John, what do you think?

*Cynthia G. Moore*

Recycling Program Coordinator  
Recycling and Solid Waste Section  
Bureau of Waste & Materials Management  
Wisconsin Department of Natural Resources  
(☎) phone: (608) 267-7550  
(☎) fax: (608) 267-2768  
(✉) e-mail: Cynthia.Moore@wisconsin.gov

---

**From:** Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]  
**Sent:** Wednesday, April 29, 2009 2:24 PM  
**To:** Moore, Cynthia G - DNR  
**Cc:** Bangert, Suzanne A - DNR; Stolzenberg, John - LEGIS; Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Anderson, John - LEGIS  
**Subject:** RE: SB 107- suggested changes to push back registration dates by 3 months

Cynthia,

Should the date (February 1, 2010) on page 10, line 19, also be delayed? This is the date after which retailers may not sell covered electronic devices unless the manufacturer is registered and the brand is listed on DNR's Internet site.

Becky

---

**From:** Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]  
**Sent:** Tuesday, April 28, 2009 2:43 PM  
**To:** Anderson, John  
**Cc:** Bangert, Suzanne A - DNR; Stolzenberg, John; Tradewell, Becky; Murray, Sarah C - DNR; Mitchell, Gene R - DNR  
**Subject:** SB 107- suggested changes to push back registration dates by 3 months

John

Per our discussion yesterday on pushing back the registration dates for recyclers, collectors and manufacturers, given that the bill is not likely to pass before the end of May which would not

leave us sufficient time to have registration materials, etc ready for a solid start up. I've identified parts of the bill I found relating to this. I highlighted a possible change on page 19- since the manufacturers will not have started recycling until January 2010, I didn't think there would be any need for a mid year recycler report in February.

I need to talk to you in person regarding possible changes to Section 11, Fiscal changes. Are you free sometime tomorrow?

Cynthia

- 1) Push back registration for manufacturers, recyclers and collectors by 3 months: Recyclers and collectors register by Nov 1, 2009, manufacturers register by Dec 1, 2009. .
- 2) Manufacturer responsible for collections/recycling for 6 months (2 program quarters) starting January 2010.

Changes:

p. 11, starting line 3. Manufacturer registration. Add a statement that for 2009 only, the manufacturer must register by December 1, 2009.

p. 11, line 21. Replace "September 1, 2009" with December 1, 2009.

p. 13, line 6. change "0.75" to "0.50"

p. 13, line 8. change "last 3 program quarters" to "last 2 program quarters"

p. 16, line 17. change "last 3 program quarters" to "last 2 program quarters"

p. 17, starting with line 13, for 2009 only, collectors must register by Nov 1, 2009

p. 18, starting line 12. For 2009 only, recyclers must register by Nov 1, 2009

p. 19, lines 3-4. reporting should start in Feb 2010. No reporting due in Feb 2009 as no collection was required for the first 2 program quarters.

*Cynthia G. Moore*

Recycling Program Coordinator  
Recycling and Solid Waste Section  
Bureau of Waste & Materials Management  
Wisconsin Department of Natural Resources

(☎) phone: (608) 267-7550

(☎) fax: (608) 267-2768

(✉) e-mail: [Cynthia.Moore@wisconsin.gov](mailto:Cynthia.Moore@wisconsin.gov)

## Tradewell, Becky

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**From:** Stolzenberg, John  
**Sent:** Wednesday, April 29, 2009 4:06 PM  
**To:** Tradewell, Becky  
**Cc:** Moore, Cynthia G - DNR; Anderson, John  
**Subject:** SB 107 amendments - covered electronic devices sales data, etc.

Becky,

As a follow-up to our discussion, here's my understanding of the portion of the drafting instructions on the substitute amendment to Senate Bill 107 relating to amounts of covered electronic devices sold in the state by manufacturers from the April 17 meeting with Sen. Miller, John Anderson, and DNR staff. These instructions are based upon my notes from that meeting and a subsequent discussion of them with Cynthia Moore.

- ✓ 1. Add a new one time study by DNR in which DNR reviews covered electronic devices sales data submitted by manufacturers in 2009 and 2010 and recommends to the Legislature whether DNR should be setting default target recycling weights for each manufacturer whose covered electronic devices are sold in the state based on national data on sales of covered electronic devices.
- ✓ 2. Authorize DNR to reject a manufacturer's report if DNR determines that the report is either not complete or not reasonably accurate.
  - Note: The discussion at the April 17 meeting on this point focused on manufacturers reporting the amounts of their covered electronic devices sold in Wisconsin, i.e., the reporting requirements in sub. (5) (a). To be consistent, I don't see why DNR should not be able to also reject a manufacturer's report on the amount of eligible electronic devices that were collected by or delivered to the manufacturer or a registered recycler on behalf of the manufacturer under sub. (5) (b). Thus, I'd suggest that you apply this provision to both sub. (5) (a) and sub. (5) (b). Also, since the April 17 meeting participants did not discuss giving this authority to DNR with regards to reports from registered collectors or registered recyclers, I'd suggest that you do not apply this provision to reports from these collectors and recyclers. If John Anderson disagrees with this interpretation after reading a copy of this note, he can indicate his preferred interpretation.
  - Note: DNR has the authority under the bill to determine that a manufacturer's registration is not complete; see page 12, lines 6 to 8.
- ✓ 3. As part of the instruction to have manufacturers report the amount of their covered electronic devices sold in the state during the program year that began 24 months before the beginning of the program year in which the report is made (i.e., the forward looking report at the beginning of a program year), specify that this change should commence with a manufacturer's report submitted with its registration beginning in 2009 rather than 2010. This will require changing the date on page 15, line 21 in SB 107.

With respect to Cynthia's April 28 note regarding suggested changes to push back registration dates by three months, I reviewed the bill and didn't see any additional provisions affected by these registration date changes other than the question on page 10, line 19, raised in your note earlier today. I assume that this change means that the September 1, 2009 on page 10, line 5, will also be pushed back 3 months. Cynthia did indicate in her note that recycler midyear reporting on page 19, lines 3 and 4 should start in February 2010, but I think it should start in February 2011, as recycling won't be required under the amendment in the first 2 quarters of program year 2009-2010.

Another date change question relates to the start of the landfill bans. Cynthia indicated to me this afternoon that DNR intentionally did not propose changing the start of the landfill bans (September 1, 2010) on page 4, line 8.

John Anderson, let us know if you disagree with maintaining the landfill ban start date as September 1, 2010 and want to delay the ban by 3 months.

John

---

John Stolzenberg  
Legislative Council  
266-2988

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0047/P1dn  
RCT... *kf*

*Date*

John Anderson:

This is a preliminary draft of the substitute amendment to SB 107. I have drafted it in preliminary form because a preliminary substitute amendment draft is not jacketed, making redrafting less cumbersome.

One of the instructions for this substitute was to change the "cap" on the carry over of recycling credits so that it is based on the target weight rather than on the number of excess pounds (that is the number of pounds over the target weight). I am not certain that I have captured the intent behind this instruction.

Under the bill, the amount that a manufacturer may carry over equals 20 percent of the number of excess pounds. So, for example, if a manufacturer recycled 10,000 pounds more than its target weight (whatever the target weight), it could carry over 2,000 pounds; if it recycled 20,000 pounds more than the target weight, it could carry over 4,000 pounds; if it recycled 150,000 pounds over the target weight, it could carry over 30,000 pounds; and so forth.

Under this draft, the amount that a manufacturer may carry over equals the number of excess pounds, but not more than 20 percent of the target weight. So, for example, if a manufacturer had a target weight of 100,000 pounds and it recycled 10,000 pounds more than its target weight, it could carry over 10,000 pounds; if it recycled 20,000 pounds more than the target weight, it could carry over 20,000 pounds; and if it recycled 150,000 pounds over the target weight, it could also carry over 20,000 pounds (20 percent of the target weight). Please let me know if this is not what is intended.

Please let me know if you have questions or want changes in this draft.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)



State of Wisconsin  
2009 - 2010 LEGISLATURE

50047/P1

LRB-0944/3

RCT:kjf:ph

Today - if possible  
Senate Substitute Amendment

To **2009 SENATE BILL 107**

ONote

Sec effd ✓

March 11, 2009 - Introduced by Senators MILLER, JAUCH, HANSEN, ROBSON, ERPENBACH, WIRCH, LEHMAN, RISSER and TAYLOR, cosponsored by Representatives BERNARD SCHABER, BLACK, HEBL, SHERMAN, MILROY, SHILLING, PARISI, BERCEAU, BENEDICT, MOLEPSKE JR., POPE-ROBERTS, RICHARDS, A. OTT, CLARK, SMITH, HINTZ, DEXTER, A WILLIAMS and HUBLER. Referred to Committee on Environment.

Regen

1 AN ACT to amend 287.91 (2), 287.95 (1) and 287.97; and to create 20.370 (2) (hr),  
2 25.49 (1m), 287.07 (5), 287.09 (2) (ar), 287.13 (5) (i) and 287.17 of the statutes;  
3 relating to: the sale, disposal, collection, and recycling of electronic devices,  
4 granting rule-making authority, making an appropriation, and providing  
5 penalties.

substitute amendment  
**Analysis by the Legislative Reference Bureau**

This bill relates to the collection, recycling, and disposal of certain electronic devices.

**MANUFACTURERS OF VIDEO DISPLAY DEVICES, COMPUTERS, AND PRINTERS**

**In general** substitute amendment

This bill imposes a number of requirements on manufacturers of consumer video display devices, consumer computers, and consumer printers (covered electronic devices). A consumer video display device is a television or a computer monitor that has a tube or screen of at least four inches in the longest diagonal dimension and that is marketed for use by individuals. <sup>seven</sup> December

Under the bill, beginning on September 1, 2009, a manufacturer may not sell a covered electronic device at retail, or to a retailer for resale, unless the manufacturer registers with the Department of Natural Resources (DNR), collects and recycles or arranges for the collection and recycling of certain electronic devices, makes required reports, and pays certain fees.

substitute amendment

**SENATE BILL 107**

Beginning on <sup>May</sup> ~~February~~ 1, 2010, the bill also prohibits a retailer from selling a covered electronic device unless the retailer determines that the manufacturer is registered with DNR.

**Registration of manufacturers**

The bill requires a manufacturer to register annually with DNR. The registration must include a list of the manufacturer's brands that are sold in this state, contact information, and a certification that the manufacturer complies with the requirements in the bill. Beginning in 2010, the bill requires a manufacturer to disclose, when it registers, whether its covered electronic devices comply with European Union limitations on the presence of certain hazardous substances, including lead and mercury, in electronic devices.

The bill authorizes DNR to revoke the registration of a manufacturer that violates the requirements in the bill.

**Collection and recycling; reporting**

The bill requires a manufacturer of covered electronic devices to collect and recycle or arrange for the collection and recycling of certain electronic devices that were used by individuals. Collecting more electronic devices, by weight, lowers the shortfall fees that a manufacturer is required to pay, as described below. A manufacturer is not limited to collecting electronic devices made by the manufacturer and is not limited to collecting covered electronic devices. The electronic devices that are counted as satisfying a manufacturer's obligation to collect and recycle (eligible electronic devices), in addition to covered electronic devices, include computer peripherals, digital video players, and video recorders used by individuals. Electronic devices used by businesses do not count toward a manufacturer's obligation to collect and recycle.

The bill requires a manufacturer to make annual reports to DNR of the weight of its covered electronic devices sold to individuals in this state and of the weight of eligible electronic devices collected by or on behalf of the manufacturer.

**Fees**

The bill requires a manufacturer to pay an annual registration fee of \$5,000, except that the fee for a manufacturer that sells at least 25 but fewer than 100 covered electronic devices in this state in a year is \$1,250 and a manufacturer that sells fewer than 25 covered electronic devices is not required to pay a registration fee.

The bill also provides for shortfall fees. Whether a manufacturer must pay a shortfall fee and the amount of the fee is based on the weight of a manufacturer's covered electronic devices sold and the weight of eligible electronic devices recycled by or on behalf of the manufacturer. Manufacturers are allowed to count eligible electronic devices collected from individuals in rural counties (identified in the bill) as weighing 1.25 times their actual weight.

If a manufacturer meets its target recycling weight, which is 0.8 times the weight of its covered electronic devices sold in a year, it is not required to pay a shortfall fee. If a manufacturer exceeds its target recycling weight, it receives credits, which it may use to meet its target recycling weight in any of the next three years or which it may sell to other manufacturers for that purpose.

*substitute amendment*

*substitute amendment*

*substitute amendment*

*substituted amendment*

**SENATE BILL 107**

**Penalties**

A manufacturer may be required to pay a forfeiture (a civil monetary penalty) of not more than \$10,000 for each violation of the requirements in the bill. The maximum forfeiture for a violation by any person other than a manufacturer is \$1,000.

*substitute amendment*

**COLLECTORS**

A collector is an entity that receives eligible electronic devices from individuals and delivers them to recyclers. The bill requires a collector to register annually with DNR if the collector delivers to a recycler eligible electronic devices that will be recycled on behalf of a manufacturer. The bill requires a collector to certify annually that it complies with the requirements in the bill and with applicable health, environmental, safety, and financial responsibility requirements. The bill also requires a collector to report to DNR annually the total weight of covered electronic devices collected and the names of recyclers to whom the collector delivered covered electronic devices.

*substitute amendment*

*substituted amendments*

**RECYCLERS**

A recycler is an entity that accepts eligible electronic devices from individuals and collectors and prepares the devices for use in manufacturing or recovers useable materials from the devices. The bill requires a recycler to register annually with DNR if it recycles eligible electronic devices on behalf of a manufacturer.

*substitute amendment*

The bill requires a registered recycler to comply with a number of requirements, including maintaining liability insurance, ensuring that it has funds available to wind up its business and repair any environmental contamination caused by the business, and maintaining records that show the weight of materials that it recovers from eligible electronic devices that are actually recycled and the weight of materials that are disposed of in a landfill or incinerated. The bill requires a registered recycler to certify annually that it complies with the requirements in the bill and with applicable requirements under other laws concerning health and safety training for employees and the storage, transportation, processing, and exporting of eligible electronic devices and materials recovered from those devices.

The bill prohibits a recycler from using prison labor to recycle eligible electronic devices on behalf of a manufacturer.

The bill requires a recycler to report to DNR twice annually the total weight of eligible electronic devices collected in this state that it receives for recycling on behalf of manufacturers.

**RETAILERS**

The bill requires a retailer to provide information to purchasers describing how eligible electronic devices can be collected and recycled and describing the prohibitions on disposing of electronic devices in landfills, as described below.

*substitute amendment*

**OTHER PROVISIONS**

**Landfill and incineration ban**

Current law prohibits various items, including lead acid batteries and major appliances, from being disposed of in landfills and from being incinerated. This bill prohibits the disposal in landfills and the incineration of televisions, computer

*substitute amendment*

**SENATE BILL 107**

monitors, computers, computer peripherals, facsimile machines, digital video players, video recorders, and telephones with video displays. The prohibition takes effect on September 1, 2010. <sup>substitute amendment</sup> The bill authorizes DNR to expand the prohibition to other kinds of electronic devices if disposing of the electronic devices in landfills may be harmful to human health or the environment and also authorizes DNR to exempt a kind of electronic device from the prohibition.

**Audits**

<sup>substitute amendment</sup> This bill authorizes DNR to perform or contract for the performance of an audit of the activities of a registered collector or a registered recycler. The bill requires the collector or recycler to pay a portion of the cost of the audit.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 20.370 (2) (hr) of the statutes is created to read:

2           20.370 (2) (hr) *Electronic waste recycling.* From the recycling and renewable  
3 energy fund, all moneys received under s. 287.17 (4) and (10) (j) for administration  
4 of the electronic waste recycling program under s. 287.17.

5           **SECTION 2.** 25.49 (1m) of the statutes is created to read:

6           25.49 (1m) The moneys received under s. 287.17 (4) and (10) (j).

7           **SECTION 3.** 287.07 (5) of the statutes is created to read:

8           287.07 (5) **ELECTRONIC DEVICES.** (a) Beginning on September 1, 2010, no person  
9 may dispose of in a solid waste disposal facility, burn in a solid waste treatment  
10 facility, or place in a container the contents of which will be disposed of in a solid  
11 waste disposal facility or burned in a solid waste treatment facility, any of the  
12 following devices, unless the device is of a kind exempted by a rule promulgated  
13 under s. 287.17 (10) (i):

14           1. A peripheral, as defined in s. 287.17 (1) (j).

15           3. A facsimile machine.

16           4. A digital video disc player.

**SENATE BILL 107**

1           5. A digital video player that does not use a disc and that is not a camera, as  
2 defined in s. 287.17 (1) (a).

3           6. A video cassette recorder.

4           7. A video recorder that does not use a cassette and that is not a camera, as  
5 defined in s. 287.17 (1) (a).

6           8. A covered electronic device, as defined in s. 287.17 (1) (f).

7           9. A telephone with a video display.

8           10. Another kind of electronic device identified by the department under s.  
9 287.17 (10) (i).

10           (b) The operator of a solid waste disposal facility or a solid waste treatment  
11 facility shall make a reasonable effort to manually separate, and arrange to have  
12 recycled, a <sup>Insert 5-12</sup> ~~covered electronic~~ device, as defined in s. 287.17 (1) <sup>✓ (em)</sup> (f), that is readily  
13 observable in solid waste that is delivered to the facility for disposal or burning  
14 unless the operator determines that one of the following applies:

15           1. Separating the device is not practical or would require the operator to  
16 implement measures to protect human health or safety in addition to any measures  
17 taken in the ordinary course of business.

18           2. The device has been damaged in such a way that recycling is not feasible or  
19 practical.

20           **SECTION 4.** 287.09 (2) (ar) of the statutes is created to read:

21           287.09 (2) (ar) Provide information to persons in its region about the  
22 prohibitions under s. 287.07 (5) (a), why it is important to recycle electronic devices,  
23 and opportunities available to those persons for recycling electronic devices.

24           **SECTION 5.** 287.13 (5) (i) of the statutes is created to read:

**SENATE BILL 107**

1           287.13 (5) (i) Solid waste that consists of eligible electronic devices, as defined  
2 in s. 287.17 (1) (gs), used by households.

3           **SECTION 6.** 287.17 of the statutes is created to read:

4           **287.17 Electronic waste recycling. (1) DEFINITIONS.** In this section:

5           (a) “Camera” means a device that records images and that is designed to be  
6 hand-held.

7           (am) “Cathode-ray tube” means a vacuum tube used to convert an electronic  
8 signal into a visual image.

9           (b) “Collection” means the act of receiving eligible electronic devices from  
10 households and delivering, or arranging for the delivery of, the eligible electronic  
11 devices to a recycler.

12           (c) “Collector” means a person who receives eligible electronic devices from  
13 households and delivers, or arranges for the delivery of, the eligible electronic devices  
14 to a recycler.

15           (d) “Computer monitor” means an electronic device that is a cathode-ray tube  
16 or flat panel display primarily intended to display information from a consumer  
17 computer or the Internet.

18           (e) “Consumer computer” means a high-speed data processing device for  
19 performing logical, arithmetic, or storage functions that is marketed by the  
20 manufacturer for use by households, except that “consumer computer” does not  
21 include an automated typewriter or typesetter, a portable hand-held calculator or  
22 device, or other similar device.

23           (eg) 1. “Consumer printer” means, except as provided in subd. 2., one of the  
24 following that is marketed by the manufacturer for use by households:

25           a. A desktop printer.

**SENATE BILL 107**

1           b. A device that prints and has other functions, such as copying, scanning, or  
2 sending facsimiles, and that is designed to be placed on a work surface.

3           2. “Consumer printer” does not include a calculator with printing capabilities  
4 or a label maker.

5           (em) “Consumer video display device” means a television or computer monitor  
6 with a tube or screen that is at least <sup>7 ← 7</sup> 4 inches in its longest diagonal measurement  
7 and that is marketed by the manufacturer for use by households, except that  
8 “consumer video display device” does not include any of the following:

9           1. A television or computer monitor that is part of a motor vehicle and that is  
10 incorporated into the motor vehicle by, or for, a motor vehicle manufacturer or a  
11 franchised motor vehicle dealer.

12           2. A television or computer monitor that is contained within a clothes washer,  
13 clothes dryer, refrigerator, freezer, microwave oven, conventional oven or stove,  
14 dishwasher, room air conditioner, dehumidifier, or air purifier.

15           (f) “Covered electronic device” means a consumer video display device, a  
16 consumer computer, or a consumer printer.

17           (g) “Dwelling unit” means a single unit providing complete, independent living  
18 facilities for one or more persons, including permanent provisions for living,  
19 sleeping, eating, cooking, and sanitation.

20           (gm) “Electronic device” means a device that requires electric current or  
21 electromagnetic fields to function and that contains a circuit board.

22           (gs) “Eligible electronic device” means a device that is one of the following and  
23 that is used by a household primarily for personal use, unless the device is of a kind  
24 exempted by a rule promulgated under s. 287.17 (10) (i):

25           1. A consumer computer.

**SENATE BILL 107**

- 1           2. A peripheral.
- 2           3. A facsimile machine.
- 3           4. A digital video disc player.
- 4           4m. A digital video player that does not use a disc and that is not a camera.
- 5           5. A video cassette recorder.
- 6           5m. A video recorder that does not use a cassette and that is not a camera.
- 7           6. A consumer video display device.
- 8           6m. A consumer printer.
- 9           7. Another kind of electronic device identified by the department under sub.
- 10       (10) (i).
- 11           (h) “Household” means one or more individuals who occupy one dwelling unit
- 12       in a detached or multiunit building.
- 13           (i) “Manufacturer” means a person who does any of the following:
- 14           1. Manufactures covered electronic devices to be sold under the person’s own
- 15       brand.
- 16           2. Sells covered electronic devices manufactured by others under the person’s
- 17       own brand.
- 18           3. Licenses the person’s brand for manufacture and sale of covered electronic
- 19       devices by others.
- 20           (j) “Peripheral” means a keyboard or any other device, other than a consumer
- 21       printer, that is sold exclusively for external use with a consumer computer and that
- 22       provides input into or output from a consumer computer.
- 23           (jm) “Program quarter” means a 3-month period ending on March 31, June 30,
- 24       September 30, or December 31.
- 25           (k) “Program year” means the period from July 1 to the following June 30.

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1 (L) “Recycler” means a person who accepts eligible electronic devices from  
2 households and collectors for the purpose of recycling. “Recycler” does not include  
3 a manufacturer who accepts products exclusively for refurbishing or repair.

4 (m) “Recycling” means preparing eligible electronic devices for use in  
5 manufacturing processes or for recovery of useable materials and delivering the  
6 materials for use. “Recycling” does not include destruction by incineration or other  
7 processes or land disposal of recyclable materials and does not include reuse, repair,  
8 or any other process through which eligible electronic devices are returned for use  
9 by households in their original form.

10 (mg) “Registered collector” means a collector who is registered under sub. (7).

11 (mr) “Registered recycler” means a recycler who is registered under sub. (8).

12 (n) “Retailer” means a person who sells a covered electronic device to a  
13 household in this state, in person or by mail, telephone, or the Internet, for use by  
14 the household.

15 (nm) “Rural county” means a county that is not an urban county.

16 (o) “Sell” means to transfer title or right to use for consideration.

17 (p) “Television” means an electronic device, with a cathode ray–tube or flat  
18 panel display, primarily intended to receive video programming via broadcast, cable,  
19 or satellite transmission or to receive video images from surveillance or similar  
20 cameras.

21 (pm) “Urban county” means Brown County, Calumet County, Chippewa  
22 County, Dane County, Dodge County, Douglas County, Dunn County, Eau Claire  
23 County, Fond du Lac County, Grant County, Green County, Jefferson County,  
24 Kenosha County, LaCrosse County, Lincoln County, Manitowoc County, Marathon  
25 County, Marinette County, Milwaukee County, Outagamie County, Ozaukee County,

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1 Pierce County, Portage County, Racine County, Rock County, Sauk County,  
2 Sheboygan County, St. Croix County, Walworth County, Washington County,  
3 Waukesha County, Winnebago County, or Wood County.

4 (2) REQUIREMENTS FOR SALE OF COVERED ELECTRONIC DEVICES. (a) *Manufacturers.*

5 Beginning on <sup>December</sup> ~~September~~ 1, 2009, a manufacturer may not sell to a household, offer  
6 to sell to a household, or deliver to retailers for subsequent sale to a household a new  
7 covered electronic device unless all of the following apply:

8 1. The manufacturer permanently affixes a label to the covered electronic  
9 device that is readily visible and that shows the manufacturer's brand.

10 2. The manufacturer is registered with the department in accordance with sub.

11 (3).

12 3. The manufacturer pays the fees under sub. (4).

13 4. The manufacturer recycles or arranges for the recycling, by a registered  
14 recycler, of eligible electronic devices used by households in this state.

15 5. The manufacturer reports as required under sub. (5).

16 (b) *Cooperation.* A manufacturer may carry out its responsibilities under par.

17 (a) 4. jointly with other manufacturers and may participate with other  
18 manufacturers in creating an entity to collect and recycle eligible electronic devices.

19 (c) *Retailers.* 1. Beginning on <sup>May</sup> ~~February~~ 1, 2010, a retailer may not sell or offer  
20 for sale to a household a new covered electronic device unless, before making the first  
21 offer for sale, the retailer has determined that the brand of the covered electronic  
22 device is listed on the department's Internet site under sub. (10) (a).

23 2. If a manufacturer's registration is revoked or expired and the retailer took  
24 possession of a covered electronic device of the manufacturer before the registration  
25 was revoked or expired, the retailer may sell the covered electronic device to a

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1 household, but only if the sale takes place fewer than 180 days after the revocation  
2 or expiration.

3 (3) REGISTRATION OF MANUFACTURERS. (a) To comply with sub. (2) (a) 2., a  
4 manufacturer shall annually <sup>Insert 11-4-A</sup> no later than September 1<sup>6</sup> <sup>Insert 11-4-B</sup> submit to the department  
5 a registration that includes all of the following:

6 1. A list of the manufacturer's brands of covered electronic devices offered for  
7 sale in this state.

8 2. The name, address, and contact information of an individual responsible for  
9 ensuring compliance with this section.

10 3. A certification that the manufacturer has complied, and will continue to  
11 comply, with the requirements of this section.

12 (b) Beginning with the registration due by September 1, 2010, a manufacturer  
13 shall indicate in its registration under par. (a) which of the following applies:

14 1. The manufacturer's covered electronic devices comply with the European  
15 Union directive on the restriction of the use of hazardous substances in electrical and  
16 electronic equipment, 2002/95/EC or a successor directive.

17 2. The manufacturer's covered electronic devices do not comply with the  
18 European Union directive on the restriction of the use of hazardous substances in  
19 electrical and electronic equipment, 2002/95/EC or a successor directive.

20 (c) Notwithstanding the deadline in par. (a), a manufacturer who begins selling  
21 covered electronic devices after <sup>December</sup> ~~September~~ 1, 2009, and who has not previously  
22 submitted a registration under this subsection shall submit a registration to the  
23 department not more than 10 days after the day on which the manufacturer begins  
24 selling or offering to sell covered electronic devices.

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1 (d) If a manufacturer changes the brands that it sells or offers to sell, the  
2 manufacturer shall update its registration not more than 10 days after making the  
3 change.

4 (e) A complete registration is effective on receipt by the department and is valid  
5 until the following September 1 unless revoked before that date.

6 (f) Within 20 business days after the receipt of a registration under this  
7 subsection, the department shall review the registration submitted and notify the  
8 manufacturer if the registration is not complete.

9 (4) MANUFACTURER RECYCLING TARGETS, FEES, AND RECYCLING CREDITS. (a)  
10 *Payment.* To comply with sub. (2) (a) 3., a manufacturer shall pay fees as provided  
11 in this subsection with the registration that it submits under sub. (3).

12 (b) *Registration fees.* 1. If the manufacturer sold at least 100 covered electronic  
13 devices in this state during the previous program year, the manufacturer shall pay  
14 a registration fee of \$5,000, except, as provided under sub. (10) (k).

15 2. If the manufacturer sold at least 25 but fewer than 100 covered electronic  
16 devices in this state during the previous program year, the manufacturer shall pay  
17 a registration fee of \$1,250.

18 3. If the manufacturer sold fewer than 25 covered electronic devices in this  
19 state during the previous program year, the manufacturer is not required to pay a  
20 registration fee.

21 (bm) *Shortfall fees.* In addition to the registration fee, beginning in 2010, a  
22 manufacturer shall pay shortfall fees under par. (c) or (d) if the amounts calculated  
23 under those provisions are positive numbers, except that a manufacturer is not  
24 required to pay shortfall fees until its covered electronic devices have been sold or  
25 offered for sale to households in this state for 3 full program years.

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1 (c) *Annual shortfall fee in 2010.* The annual shortfall fee to be paid in 2010 by  
2 a manufacturer is calculated as follows:

3 1. Determine the manufacturer's target recycling weight by multiplying the  
4 number of pounds of the manufacturer's covered electronic devices sold to  
5 households in this state <sup>Inse 13-5</sup> as reported in 2010 under sub. (5) (a), by 0.8 and multiplying  
6 the product by 0.75.

7 2. Determine the actual recycling weight equal to the weight of eligible <sup>2</sup>  
8 electronic devices recycled by or on behalf of the manufacturer during the last <sup>3</sup>  
9 program quarters of program year 2009–10, as determined under par. (f) 2.

10 3. Subtract the actual recycling weight, determined under subd. 2., from the  
11 target recycling weight, determined under subd. 1.

12 4. Multiply the amount determined under subd. 3. by the estimated cost of  
13 recycling determined as follows:

14 a. Fifty cents per pound for a manufacturer if the weight of eligible electronic  
15 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,  
16 is less than 50 percent of the target recycling weight, determined under subd. 1.

17 b. Forty cents per pound for a manufacturer if the weight of eligible electronic  
18 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,  
19 is at least 50 percent but not more than 90 percent of the target recycling weight,  
20 determined under subd. 1.

21 c. Thirty cents per pound for a manufacturer if the weight of eligible electronic  
22 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,  
23 is more than 90 percent of the target recycling weight, determined under subd. 1.

24 (d) *Annual shortfall fee after 2010.* The annual shortfall fee to be paid by a  
25 manufacturer in a year after 2010 is calculated as follows:

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1           1. Determine the manufacturer's target recycling weight by multiplying the  
2 number of pounds of the manufacturer's covered electronic devices sold to  
3 households in this state <sup>Insert 14-3</sup> ~~as reported in that year~~ under sub. (5) (a), by 0.8.

4           2. Determine the actual recycling weight by adding the weight of eligible  
5 electronic devices recycled by or on behalf of the manufacturer during the previous  
6 program year, as determined under par. (f) 1., plus the number of recycling credits  
7 that a manufacturer elects to use, as reported to the department under sub. (5) (c)  
8 3.

9           3. Subtract the actual recycling weight, determined under subd. 2., from the  
10 target recycling weight, determined under subd. 1.

11           4. Multiply the amount determined under subd. 3. by the estimated cost of  
12 recycling determined as follows:

13           a. Fifty cents per pound for a manufacturer if the weight of eligible electronic  
14 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,  
15 is less than 50 percent of the target recycling weight, determined under subd. 1.

16           b. Forty cents per pound for a manufacturer if the weight of eligible electronic  
17 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,  
18 is at least 50 percent but not more than 90 percent of the target recycling weight,  
19 determined under subd. 1.

20           c. Thirty cents per pound for a manufacturer if the weight of eligible electronic  
21 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,  
22 is more than 90 percent of the target recycling weight, determined under subd. 1.

23           (e) *Recycling credits.* If, for a program year, the weight of eligible electronic  
24 devices recycled by or on behalf of a manufacturer, as determined under par. (f) 1.,  
25 exceeds the target recycling weight determined under par. (c) 1. or (d) 1., the

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1 manufacturer has a number of recycling credits equal to 20 percent of the number  
 2 of excess pounds. <sup>Inser 115-2</sup> The manufacturer may use the credits for the purpose of par. (d)  
 3 2. for any of the 3 succeeding program years or may sell credits to another  
 4 manufacturer for use for any of the 3 succeeding program years.

5 (f) *Weight recycled.* 1. The weight of eligible electronic devices recycled by or  
 6 on behalf of a manufacturer for a program year is the weight reported under sub. (5)  
 7 (b) for that program year, except that if the manufacturer reports separately the  
 8 weight of eligible electronic devices used by households in rural counties and used  
 9 by households in urban counties for a program year, the weight is determined by  
 10 adding the weight used by households in urban counties in that program year and  
 11 1.25 times the weight used by households in rural counties in that program year.

12 2. The weight of eligible electronic devices recycled by or on behalf of a  
 13 manufacturer for the last <sup>2</sup> 3 program quarters of program year 2009–10 is the weight  
 14 reported under sub. (5) (b) for that period, except that if the manufacturer reports  
 15 separately the weight of eligible electronic devices used by households in rural  
 16 counties and used by households in urban counties for that period, the weight is  
 17 determined by adding the weight used by households in urban counties in that period  
 18 and 1.25 times the weight used by households in rural counties in that period.

19 (5) MANUFACTURERS REPORTING REQUIREMENTS. (a) *Weight of covered electronic*  
 20 *devices sold.* 1. Except as provided in subd. 3., with <sup>of each</sup> the registration that it submits  
 21 under sub. (3) beginning in 2010 a manufacturer shall report one of the following to  
 22 the department:

23 a. The total weight of each model of its covered electronic devices sold to  
 24 households in this state during the program year that began <sup>24</sup> 36 months before the  
 25 beginning of the program year in which the report is made.

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1           b. The total weight of all of its covered electronic devices sold to households in  
 2 this state during the program year that began ~~36~~<sup>24</sup> months before the beginning of the  
 3 program year in which the report is made.

4           c. An estimate, based on national sales data, of the total weight of its covered  
 5 electronic devices sold to households in this state during the program year that began  
 6 ~~36~~<sup>24</sup> months before the beginning of the program year in which the report is made.

7           2. A manufacturer shall include in the report required under subd. 1. a  
 8 description of how the manufacturer calculated the weight reported under subd. 1.

9           3. A manufacturer is not required to report under subd. 1. until its covered  
 10 electronic devices have been sold or offered for sale to households in this state for one  
 11 full program year.

Insert  
 12  
 16-11

13           (b) *Weight of eligible electronic devices recycled.* With the registration that it  
 14 submits under sub. (3) in 2010, a manufacturer shall report to the department the  
 15 total weight of eligible electronic devices used by households in this state that were  
 16 collected by or delivered to the manufacturer for recycling by the manufacturer or  
 17 the manufacturer during the last ~~3~~<sup>2</sup> program quarters of the preceding program year.

18 Beginning in 2011, with the registration that it submits under sub. (3), a  
 19 manufacturer shall report to the department the total weight of eligible electronic  
 20 devices used by households in this state that were collected by or delivered to the  
 21 manufacturer for recycling by the manufacturer or that were collected by or  
 22 delivered to a registered recycler for recycling on behalf of the manufacturer during  
 23 the preceding program year. A manufacturer may report separately the weight of  
 24 eligible electronic devices used by households in rural counties and used by  
 25 households in urban counties for the purpose of obtaining the weight adjustment

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1 under sub. (4) (f) for eligible electronic devices received from households in rural  
2 counties.

3 (c) *Recycling credits.* With the registration that it submits under sub. (3),  
4 beginning in 2011, a manufacturer shall report all of the following to the department:

5 1. The number of recycling credits that the manufacturer purchased during the  
6 preceding program year.

7 2. The number of recycling credits that the manufacturer sold during the  
8 preceding program year.

9 3. The number of recycling credits that the manufacturer elects to use in the  
10 calculation of its shortfall fees under sub. (4) (d) 2.

11 4. The number of recycling credits available to the manufacturer after  
12 calculating its shortfall fees under sub. (4) (d) 2.

13 (7) COLLECTORS. (a) *Registration.* 1. Beginning on <sup>November</sup> ~~August~~ 1, 2009, no person  
14 may operate as a collector delivering or arranging for the delivery of eligible  
15 electronic devices to a registered recycler for recycling on behalf of a manufacturer  
16 who is registered under sub. (3) unless the person <sup>Insert 17-16</sup> ~~submits~~ to the department ~~an~~  
17 annual registration, using a form prescribed by the department, that includes all of  
18 the following:

19 a. The name, address, and contact information of a responsible individual.

20 b. The street address of all facilities at which the person operates as a collector.

21 c. A certification that the person has all governmental licenses or other  
22 approvals that are required to operate as a collector and has complied, and will  
23 continue to comply, with the requirements of this subsection and with applicable  
24 health, environmental, safety, and financial responsibility requirements.

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1           2. A complete registration is effective on receipt by the department and is valid  
2 until the following August 1 unless suspended or revoked before that date.

3           (b) *Reports and records.* No later than August 1 of each program year,  
4 beginning August 1, 2010, a registered collector shall report to the department the  
5 total weight of eligible electronic devices collected in this state during the preceding  
6 program year and the names of all registered recyclers to whom the collector  
7 delivered eligible electronic devices. A registered collector shall maintain records of  
8 the sources of eligible electronic devices it collects and of the registered recyclers to  
9 whom the collector delivers eligible electronic devices.

10           (c) *Limitation.* A registered collector may not use prison labor to collect eligible  
11 electronic devices the weight of which was or will be reported under sub. (5) (b).

12           (8) RECYCLERS. (a) *Registration.* 1. Beginning on <sup>November</sup> ~~August~~ 1, 2009, no person  
13 may operate as a recycler receiving eligible electronic devices on behalf of a  
14 manufacturer who is registered under sub. (3) unless the person <sup>Insert 18-19</sup> ~~submits~~  
15 department ~~an annual~~ registration, using a form prescribed by the department, that  
16 includes all of the following:

- 17           a. The name, address, and contact information of a responsible individual.
- 18           b. The street address of all facilities at which the person conducts recycling.
- 19           c. The certification required under par. (d).
- 20           d. Documentation of the liability insurance required under this subsection.

21           2. A complete registration is effective on receipt by the department and is valid  
22 until the following August 1 unless suspended or revoked before that date.

23           (b) *Reports and records.* 1. No later than August 1 of each program year,  
24 beginning with August 1, 2010, a registered recycler shall report to the department  
25 the total weight of eligible electronic devices collected in this state that the recycler

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1 received for recycling on behalf of a manufacturer registered under sub. (3) during  
2 the preceding program year and the name of the manufacturer.

3 2. No later than February 1 of each program year, <sup>beginning in 2011,</sup> a registered recycler shall  
4 report to the department all of the following:

5 a. The total weight of eligible electronic devices collected in this state that the  
6 recycler received for recycling on behalf of a manufacturer during the first 6 months  
7 of the program year and the name of the manufacturer.

8 b. The total weight of eligible electronic devices collected in this state that the  
9 recycler received for recycling during the first 6 months of the program year in  
10 anticipation of attributing them to a manufacturer for the purposes of the program  
11 under this section.

12 3. A registered recycler shall maintain records of the sources of eligible  
13 electronic devices collected in this state that the recycler receives for recycling on  
14 behalf of a manufacturer registered under sub. (3).

15 (c) *Operational requirements.* 1. A registered recycler shall maintain liability  
16 insurance coverage in the amount of at least \$1,000,000 for environmental releases,  
17 accidents, and other emergencies.

18 2. A registered recycler may not use prison labor to recycle eligible electronic  
19 devices the weight of which was or will be reported under sub. (5) (b).

20 3. A registered recycler shall maintain proof of financial responsibility  
21 ensuring the availability of funds in an amount sufficient to cover the estimated costs  
22 of paying another person to close the facilities at which recycling is conducted,  
23 including managing any remaining eligible electronic devices or materials derived  
24 from eligible electronic devices and performing any necessary environmental  
25 cleanup. The registered recycler shall maintain, and provide to the department upon

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1 request, an itemized statement of the estimated costs in a form specified by the  
2 department and documentation of the source of the estimates. The registered  
3 recycler may provide the proof of financial responsibility required under this  
4 subdivision using one of the following:

5 a. A surety bond.

6 b. A deposit of cash, certificates of deposit, or securities issued by the federal  
7 government.

8 c. An escrow account.

9 d. An irrevocable letter of credit.

10 e. An irrevocable trust.

11 4. A registered recycler shall maintain, and make available to manufacturers

12 upon request, records that can be used to determine, for each program year, the total

13 weight of eligible electronic devices recycled received by the recycler, the weight of materials

14 derived from those eligible electronic devices that the registered recycler sends to another

15 person for use in a manufacturing process or for recovery of useable materials, and

16 the weight of materials derived from those eligible electronic devices that the registered

17 recycler sends to be disposed of in a solid waste disposal facility or burned at a solid

18 waste treatment facility.

19 5. A registered recycler shall maintain, and make available to manufacturers

20 upon request, records that do all of the following:

21 a. Identify each person who received from the registered recycler materials

22 derived from eligible electronic devices. Inset 20-22

23 b. If a person identified under subd. 5. a. does not use the materials in a

24 manufacturing process, identify each person who receives from the person identified

25 under subd. 5. a. materials derived from eligible electronic devices. Inset 20-25-A

Inset  
20-25-B →

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1           6. A registered recycler shall maintain records that show the actions that it  
2 takes <sup>in a program year</sup> to ensure that the persons identified under subd. 5. use the materials derived  
3 from eligible electronic devices in a manufacturing process or for recovery of useable  
4 materials. <sup>Insert 21-4</sup>

5           7. A registered recycler shall prepare and maintain a written contingency plan  
6 for responding to releases of hazardous substances that complies with the  
7 requirements in s. NR 664.0052, Wis. Adm. Code.

8           8. A registered recycler shall comply with any other operational requirement  
9 in rules promulgated under par. (e).

10           (d) *Certification.* As a condition of registration under par. (a), a registered  
11 recycler shall submit to the department a certification that states that the registered  
12 recycler does all of the following:

- 13           1. Complies with par. (c).
- 14           2. Complies with federal, state, and local requirements concerning the storage,  
15 transportation, processing, and exporting of eligible electronic devices and materials  
16 derived from eligible electronic devices, including the requirements in 40 CFR  
17 261.39 (a) (5) and 273.20 and requirements in rules promulgated under s. 291.05.
- 18           3. Complies with federal requirements under 29 CFR 1910.120 concerning  
19 occupational and environmental health and safety training for employees.

20           (e) *Modifying or adding requirements by rule.* The department shall review the  
21 requirements under par. (c) 1. to 7. to determine whether it is necessary to modify  
22 or add to those requirements so that the requirements applicable to registered  
23 recyclers are at least equivalent to nationally recognized standards for recycling  
24 eligible electronic devices. If the department determines that it is necessary to  
25 modify or add to the requirements under par. (c) 1. to 7., the department shall

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1 promulgate rules that modify or add to the requirements so that they are at least  
2 equivalent to nationally recognized standards for recycling eligible electronic  
3 devices. The department may not promulgate a rule under this paragraph that takes  
4 effect before the first day of the 24th month beginning after the effective date of this  
5 paragraph .... [LRB inserts date].

6 **(9) RETAILERS.** A retailer who sells covered electronic devices for use by  
7 households shall provide to purchasers information describing how eligible  
8 electronic devices can be collected and recycled and a description of the prohibitions  
9 in s. 287.07 (5) (a). A retailer may satisfy this requirement by providing a toll-free  
10 number for receiving the information and a description of how to access the  
11 department's Internet site under sub. (10) (a). A retailer who sells through a catalog  
12 may provide the information in the catalog. A retailer who sells through the Internet  
13 may provide the information on its Internet site.

14 **(9m) RECORD KEEPING AND INSPECTION.** A person subject to sub. (3), (7), (8), or  
15 (9) shall maintain records related to the program under this section and reports  
16 required under this section for at least 3 years. The department may inspect records  
17 of a person subject to sub. (3), (7), (8), or (9) that are related to the program under this  
18 section.

19 **(10) POWERS AND DUTIES OF THE DEPARTMENT.** (a) *Internet site; manufacturers.*  
20 The department shall maintain an Internet site on which the department lists the  
21 names of manufacturers who are registered under sub. (3) and the names of the  
22 brands listed in the manufacturers' registrations. The department shall update the  
23 information on the Internet site promptly upon receipt of a new or revised  
24 registration. The department shall include on the Internet site a statement that this  
25 section applies only to covered electronic devices sold for household use and that the

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1 list of manufacturers is not a list of manufacturers qualified to sell video display  
2 devices, computers, or printers for industrial, commercial, or other nonhousehold  
3 uses. The department shall also include on the Internet site the contact information  
4 provided by manufacturers under sub. (3) (a) 2.

5 (am) *Internet site; recyclers.* The department shall maintain an Internet site  
6 on which the department lists the names of registered recyclers. The department  
7 shall update the information on the Internet site promptly upon receipt of a new or  
8 revised registration.

9 (b) *Providing information.* Except as provided in par. (bm), the department  
10 shall make the information provided in registration statements and reports under  
11 subs. (3), (5), (7), and (8) available to manufacturers, retailers, and the public.

12 (bm) *Confidentiality.* 1. The department shall keep confidential any part of a  
13 record, report, or other information obtained in the administration of this section  
14 upon receiving an application for confidential status by any person containing a  
15 showing satisfactory to the department that the part of a record, report, or other  
16 information would, if made public, divulge a method or process that is entitled to  
17 protection as a trade secret, as defined in s. 134.90 (1) (c), of that person.

18 2. If the department refuses to release information on the grounds that it is  
19 confidential under subd. 1. and anyone challenges that refusal, the department shall  
20 inform the person who submitted the application under subd. 1. of that challenge.  
21 Unless that person authorizes the department to release the information, that  
22 person shall pay the reasonable costs incurred by this state to defend the refusal to  
23 release the information.

24 3. Subdivision 1. does not prevent the disclosure of any information to a  
25 representative of the department for the purpose of administering this section or to

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1 an officer, employee, or authorized representative of the federal government for the  
2 purpose of administering federal law. When the department provides information  
3 that is confidential under subd. 1. to the federal government, the department shall  
4 also provide a copy of the application for confidential status.

5 (c) *Review of formula.* 1. The department shall annually review all of the  
6 following:

7 a. The number by which the weight of covered electronic devices sold is  
8 multiplied under sub. (4) (d) 1. to determine target recycling weight.

9 b. The estimated cost of recycling under sub. (4) (d) 4.

10 c. The registration fees under sub. (4) (b).

11 d. The multiplier for the weight of eligible electronic devices collected from  
12 households in rural counties under sub. (4) (f).

13 2. If the department determines that any of the values under subd. 1. a. to d.  
14 should be changed in order to improve the effectiveness of the program under this  
15 section or to provide more recycling opportunities to rural areas of this state, the  
16 department shall report its recommendations for changes under s. 13.172 (3) to the  
17 committee of each house of the legislature with jurisdiction over solid waste policy.

Insert  
18  
24-17

18 (d) *Annual report.* Before December 1 of each year, beginning in 2012, the  
19 department shall provide a report on the program under this section to the  
20 legislature under s. 13.172 (2) and to the governor. The department shall include all  
21 of the following in the report:

22 1. The total weight of eligible electronic devices recycled.

23 2. A summary of the information provided by manufacturers and recyclers  
24 under subs. (5) and (8).

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1           3. Information concerning the recycling programs used by manufacturers to  
2 recycle eligible electronic devices.

3           4. Information concerning the collection and recycling of eligible electronic  
4 devices by persons other than registered manufacturers, registered collectors, and  
5 registered recyclers.

6           5. Information about any disposal of eligible electronic devices in landfills and  
7 any burning of eligible electronic devices in solid waste treatment facilities in this  
8 state.

9           6. A description of any actions taken to enforce the requirements of this section.

10          7. Any recommendations to apply the requirements under sub. (2) to additional  
11 kinds of devices.

12           (e) *Report concerning federal legislation.* If a federal law relating to the  
13 collection and recycling of covered electronic devices sold in the United States is  
14 enacted, the department shall prepare a report describing the effect of the federal  
15 law and shall submit the report under s. 13.172 (3) to the committee of each house  
16 of the legislature with jurisdiction over solid waste policy.

17           (f) *Outreach and communication.* 1. The department shall promote public  
18 participation in the collection and recycling of eligible electronic devices by and on  
19 behalf of manufacturers through education and outreach activities. The department  
20 shall facilitate communications between local governments, persons operating solid  
21 waste collection and recycling centers, and manufacturers to ensure that  
22 manufacturers are aware of eligible electronic devices that are available for  
23 recycling.

24          2. The department shall assist recyclers to identify federal and state  
25 requirements concerning the storage, transportation, export, and processing of

**SENATE BILL 107**

1 eligible electronic devices and materials derived from eligible electronic devices. The  
2 department shall assist collectors to identify health, environmental, safety, and  
3 financial responsibility requirements applicable to collectors.

4 (g) *Cooperation with other states.* The department may cooperate with other  
5 states to effectuate the program under this section. The department may, with other  
6 states, operate a regional system for creating, trading, and selling credits for  
7 recycling eligible electronic devices.

8 (h) *Suspension and revocation.* The department may revoke the registration  
9 of a manufacturer who violates sub. (2) (a), (3), (4), or (5). The department may  
10 suspend or revoke the registration of a collector or recycler who violates sub. (7) or  
11 (8).

12 (i) *Addition or exemption of eligible electronic devices.* If the department  
13 determines that the disposal or burning of a kind of electronic device that is not listed  
14 in sub. (1) (gs) in a solid waste facility may be harmful to human health or the  
15 environment, the department may promulgate a rule specifying that the kind of  
16 electronic device is an eligible electronic device, is subject to s. 287.07 (5) (a), or both.  
17 If the department determines that the disposal or burning of a kind of electronic  
18 device that is listed in sub. (1) (gs) or s. 287.07 (5) (a) in a solid waste facility is not  
19 harmful to human health and is not harmful to the environment or if the department  
20 determines that it is not feasible to require the recycling of a kind of electronic device  
21 that is listed in sub. (1) (gs) or s. 287.07 (5) (a), the department may promulgate a rule  
22 specifying that the kind of electronic device is not an eligible electronic device, is not  
23 subject to s. 287.07 (5) (a), or both. The department may not promulgate a rule under  
24 this paragraph that takes effect before the first day of the 24th month beginning after  
25 the effective date of this paragraph .... [LRB inserts date].

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1           (j) *Audits.* The department may perform or contract for the performance of an  
2           audit of the activities of a registered collector or registered recycler. If the  
3           department performs or contracts for the performance an audit of a collector or  
4           recycler during the first 3 years in which the collector or recycler is registered under  
5           sub. (7) or (8) (a), the collector or recycler shall pay 25 percent of the cost of the audit.  
6           If the department performs or contracts for the performance of an audit of a collector  
7           or recycler after the first 3 years in which the collector or recycler is registered, the  
8           collector or recycler shall pay 50 percent of the cost of the audit.

9           (k) *Modification of registration fee.* The department may modify the  
10          registration fee under sub. (4) (b) 1. by rule. The department may not promulgate  
11          a rule under this paragraph that takes effect before the first day of the 24th month  
12          beginning after the effective date of this paragraph .... [LRB inserts date].

13          **(11) PENALTIES.** (a) *Manufacturer.* Any manufacturer who violates this section  
14          may be required to forfeit not more than \$10,000 for each violation.

15          (b) *Others.* Any person, other than a manufacturer, who violates this section  
16          may be required to forfeit not more than \$1,000 for each violation.

17          **SECTION 7.** 287.91 (2) of the statutes is amended to read:

18          287.91 (2) Notwithstanding sub. (1) and s. 287.95 (3) (a), the attorney general  
19          may enforce s. 287.07 (3) ~~and~~, (4), ~~and~~ (5) by seeking injunctive relief against any  
20          person violating those provisions.

21          **SECTION 8.** 287.95 (1) of the statutes is amended to read:

22          287.95 (1) Any person who violates s. 287.07 (1m) or (5) may be required to  
23          forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd violation and  
24          may be required to forfeit not more than \$2,000 for a 3rd or subsequent violation.

25          **SECTION 9.** 287.97 of the statutes is amended to read:

**SENATE BILL 107****SECTION 9**

1           **287.97 Penalties.** Any person who violates this chapter, except s. 287.07,  
2           287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under  
3           s. 287.07, 287.08 or 287.81, may be required to forfeit not less than \$10 nor more than  
4           \$1,000 for each violation.

**SECTION 10. Nonstatutory provisions.**

5  
6           (1) PERMANENT POSITION AUTHORIZATION. The authorized FTE positions for the  
7           department of natural resources are increased by 1.0 SEG position, to be funded from  
8           the appropriation under section 20.370 (2) (hr) of the statutes, as created by this act,  
9           to administer the electronic waste recycling program.

**(2) PROJECT POSITION AUTHORIZATION.**

10  
11           (a) The authorized FTE positions for the department of natural resources are  
12           increased by 1.0 SEG 2-year project position, to be funded from the appropriation  
13           under section 20.370 (2) (hq) of the statutes, for start up of the electronic waste  
14           recycling program.

15           (b) The authorized FTE positions for the department of natural resources are  
16           increased by 1.0 SEG 2-year project position, to be funded from the appropriation  
17           under section 20.370 (2) (hr) of the statutes, as created by this act, for start up of the  
18           electronic waste recycling program.

**SECTION 11. Fiscal changes.**

19  
20           (1) FUNDING FOR POSITIONS AND ADMINISTRATION. In the schedule under section  
21           20.005 (3) of the statutes for the appropriation to the department of natural  
22           resources under section 20.370 (2) (hq) of the statutes, as affected by the acts of 2009,  
23           the dollar amount is increased by \$40,000 for fiscal year 2008–09 for administration  
24           of the electronic waste recycling program, to increase the authorized FTE positions  
25           for the department by 1.0 SEG position for administration of the electronic waste

**SENATE BILL 107**

1 recycling programs, and to fund the 1.0 FTE SEG project position authorized under  
2 SECTION 10 (2) (a) of this act.

3 (2) CONTINUED FUNDING FOR POSITIONS AND ADMINISTRATION. In the schedule  
4 under section 20.005 (3) of the statutes for the appropriation to the department of  
5 natural resources under section 20.370 (2) (hq) of the statutes, as affected by the acts  
6 of 2009, the dollar amount is increased by \$170,000 for the first fiscal year of the fiscal  
7 biennium in which this subsection takes effect for administration of the electronic  
8 waste recycling program and to provide continued funding for the positions  
9 authorized under this act. In the schedule under section 20.005 (3) of the statutes  
10 for the appropriation to the department of natural resources under section 20.370 (2)  
11 (hq) of the statutes, as affected by the acts of 2009, the dollar amount is increased  
12 by \$160,000 for the second fiscal year of the fiscal biennium in which this subsection  
13 takes effect for administration of the electronic waste recycling program and to  
14 provide continued funding for the positions authorized under this act.

15 **SECTION 12. Effective dates.** This act takes effect on the day after publication,  
16 except as follows:

17 (1) SECTION 11 (2) takes effect on the day after publication or the 2nd day after  
18 publication of the 2009–11 biennial budget act, whichever is later.

19 (END)

D-Note

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0047/P1ins  
RCT:.....

1 **Insert 5-12**

2 consumer video display

3 **Insert 11-4-A**

4 no later than December 1 in 2009 and

5 **Insert 11-4-B**

6 beginning in 2010

7 **Insert 13-5**

8 ~~no \$~~ during the program year that began 36 months before the beginning of <sup>the</sup> program  
9 year in which the calculation is made

10 **Insert 14-3**

11 ~~no \$~~ during the program year that began 36 months before the beginning of <sup>the</sup> program  
12 year in which the calculation is made

13 **Insert 15-2**

14 or 20 percent of the target recycling weight, whichever is less

15 **Insert 16-11**

16 4. The department may reject a manufacturer's report under subd. 1. if it ✓  
17 determines that the report is not complete or not reasonably accurate. ✓

18 **Insert 17-16**

19 ~~no \$~~ is registered under this paragraph. ✓ A person shall register by submitting  
20 annually, no later than November 1 in 2009 and no later than August 1 beginning  
21 in 2010,

22

23

**Insert 18-14**

no ~~it~~ is registered under this paragraph. A person shall register by submitting annually, no later than November 1 in 2009 and no later than August 1 beginning in 2010,

**Insert 20-13**

on behalf of manufacturers under this section

**Insert 20-22**

recycled on behalf of manufacturers under this section

**Insert 20-25-A**

recycled on behalf of manufacturers under this section

**Insert 20-25-B**

5m. A registered recycler shall make the information under subds. 4. and 5. for a program year available, upon request, to a manufacturer on behalf of whom the recycler recycled eligible electronic devices under this section in that program year, except that if the recycler maintains a system under which it tracks eligible electronic devices recycled on behalf of one manufacturer, and the disposition of the materials derived from those eligible electronic devices, separately from other eligible electronic devices that it recycles, the recycler is only required to provide to that manufacturer the information under subds. 4. and 5. concerning the eligible electronic devices recycled on behalf of that manufacturer.

**Insert 21-4**

no ~~it~~ and shall make that information available upon request to a manufacturer on behalf of whom the recycler recycles eligible electronic devices under this section in that program year

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1           **Insert 24-17**

2           (cm) *Report concerning sales information.* The department shall evaluate the  
3 accuracy of the information provided by manufacturers under sub. (5) (a) in 2009 and  
4 2010 and whether the weight of each manufacturer's covered electronic devices sold  
5 in this state should be based on national sales data obtained from <sup>3rd</sup> ~~third~~ parties.  
6 Before December 1, 2011, the department shall report the results of its evaluation  
7 to the legislature under s. 13.172 (2) and to the governor.

## Tradewell, Becky

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**From:** Moore, Cynthia G - DNR [Cynthia.Moore@Wisconsin.gov]  
**Sent:** Thursday, April 30, 2009 11:58 AM  
**To:** Tradewell, Becky; Stolzenberg, John  
**Cc:** Anderson, John; Bangert, Suzanne A - DNR; Murray, Sarah C - DNR  
**Subject:** FW: Fiscal change to SB 107

Becky and John

I was able to discuss this with John Anderson this morning; he says its consistent with what they would want to see in the bill amendment. Please give me a call if you have any questions.

*Cynthia G. Moore*

Recycling Program Coordinator  
Recycling and Solid Waste Section  
Bureau of Waste & Materials Management  
Wisconsin Department of Natural Resources

(☎) phone: (608) 267-7550  
(☎) fax: (608) 267-2768  
(✉) e-mail: Cynthia.Moore@wisconsin.gov

---

**From:** Moore, Cynthia G - DNR  
**Sent:** Wednesday, April 29, 2009 3:05 PM  
**To:** Anderson, John - LEGIS  
**Cc:** Bangert, Suzanne A - DNR; Murray, Sarah C - DNR; Mitchell, Gene R - DNR  
**Subject:** Fiscal change to SB 107

John

I sent out the list of revisions needed to adjust for pushing back registration by 3 months, and have been on the phone several times with John S to discuss other details of the revisions. One final revision, which I wanted to clear with you first, relates to Section 11: Fiscal changes. The changes reflect a) no program work until July 1, 2009, b) manufacturer registration fees which fund the Electronics Fund do not kick in until Dec 1 2009, and c) the assumption that manufacturer registration fees are not reduced.

Give me a call if we need to discuss these.

Note:

2(hq) is the Recycling/Renewable Energy SEG fund  
2(hr) is the new Electronics Fund

Recommended Changes:

1. p. 28, starting line 20. Eliminate the appropriation from 2(hq) for FY 08-09, but be sure to keep the authorization for this position starting in FY 09 10.

Note: 2(hq) appropriation for FY 09 10 on page 29, starting line 3, is unchanged at \$170,000: 2 FTE at \$80,000 each plus \$10,000 for outreach.

DNR Waste Program will "front" approximately \$85,000 to cover staff and administrative expenses incurred between July 1 - Nov 30, and charge these expenses back to 2(hr) once this fund has money after manufacturers start paying their registration fees by Dec 1 2009.

*Cynthia G. Moore*

Recycling Program Coordinator  
Recycling and Solid Waste Section  
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