

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3058/P1dn
RCT:jld:nwn

October 18, 2007

John Anderson:

This is a preliminary version of the proposal concerning the collection and recycling of electronic devices. It is based on the Minnesota law, Minnesota Session Law 2007 – chapter 48, and instructions from Sen. Miller. I made some changes from the Minnesota law for a number of reasons, including technical differences in statutory structure and style. I also tried to improve clarity, consistency, and workability. For example, the Minnesota law requires retailers to report their program year sales to manufacturers by July 1, but the program year ends on June 30. I delayed the reporting requirement to August 1.

Please review the draft very carefully to ensure that it contains all of the provisions, and only the provisions, that are wanted. There are some notes in the draft about specific provisions.

It may not be possible, as a practical matter and as a legal matter, to impose the requirements of s. 287.17 on a company that sells video display devices in this state solely through the Internet.

This draft includes definitions based on the Minnesota law, but I am concerned that some of the definitions may have technical problems. The definitions of “computer monitor” and “television,” for example, refer to cathode-ray tubes and flat panel displays. I do not know whether those are appropriate descriptions to cover all of the devices that you wish to cover. It may be difficult to tell which devices are computers and use the definition of “computer” in the draft. I am uncertain whether the definition of “peripheral” covers all devices generally considered to be peripherals, such as external hard drives. A definition from the Merriam-Webster online dictionary includes devices connected to a computer to provide auxiliary functions, such as additional storage. You might want to look at the previous version of the electronic waste proposal, LRB-2100/P1, for alternative ways to describe electronic devices.

As in the Minnesota law, this draft excludes repair and reuse from the definition of recycling. That seems to make sense, but the law does not appear to give credit to a manufacturer for covered electronic devices that the manufacturer collects, or arranges to have collected, that are ultimately reused, with or without repair, rather than taken apart for recycling. That differs from LRB-2100/P1. You may want to consider giving credit for electronic devices that are ultimately reused.

As requested, this draft omits the exception for telephones from the Minnesota definition of "video display device," however, the definition of "video display device" requires that the device have a screen of at least 9 inches diagonally. Therefore, under the manufacturer responsibility portion of this draft, telephones will still not be considered video display devices unless they have screens of at least that size. The draft does prohibit the landfilling of telephones with video displays, as requested.

This draft does not include provisions for the refund a portion of the fees paid by manufacturers in case the amount collected is more than is necessary to administer the program because of the instruction to remove the language about reporting if revenues exceed the amounts necessary to administer the program and because it seems inconsistent with the provision about recommending changes to the amount of fees in order to improve the effectiveness of the program. See sec. 3, subdv. 2 (a) of the Minnesota law. Please let me know if you want to add language about refunds.

Please review the proposed penalties for violations of s. 287.17 and let me know whether you would prefer different penalties.

There will be costs to start up the program created in this draft before the Department of Natural Resources (DNR) begins collecting fees from manufacturers. Please let me know if you want to include an appropriation for this purpose. Also, please let me know if you want to provide DNR with any new positions to administer the proposal.

Please contact me with any questions or redraft instructions.

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