



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3058/P1

RCT:....

500w (in 10/17)

JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

SA ✓  
X-ref ✓

Gen

1 AN ACT ...; relating to: the disposal, collection, and recycling of electronic  
2 devices, making an appropriation, and providing penalties. ✓

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version. ✓

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

3 SECTION 1. 16.71 (7) of the statutes is created to read:  
4 16.71 (7) The department, any other designated purchasing agent under sub.  
5 (1), ✓ and each authority, may not purchase a video display device, ✓ as defined in s.  
6 287.17 (1) (q), ✓ unless the manufacturer of the video display device is registered with  
7 the department of natural resources under s. 287.17 (3).

8 SECTION 2. 20.370 (2) (hr) of the statutes is created to read:  
9 20.370 (2) (hr) *Electronic waste recycling.* ✓ From the recycling fund, ✓ all moneys  
10 received under s. 287.17 (4) ✓ for administration of the electronic waste recycling  
11 program under s. 287.17. ✓

1           **SECTION 3.** 25.49 (1m) of the statutes is created to read:

2           25.49 (1m) The fees imposed under s. 287.17 (4).

3           **SECTION 4.** 287.07 (5) of the statutes is created to read:

4           287.07 (5) ELECTRONIC DEVICES. Beginning on September 1, 2009, no person  
5 may dispose of any of the following in a solid waste disposal facility:

6           (a) A computer, as defined in s. 287.17 (1) (d).

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

8           (c) A facsimile machine.

9           (d) A digital video disc player.

10          (e) A video cassette recorder.

11          (f) A video display device, as defined in s. 287.17 (1) (q).

12          (g) A telephone with a video display.

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

14          287.13 (5) (i) Solid waste that consists of covered electronic devices, as defined  
15 in s. 287.17 (1) (f), used by households.

\*\*\*\*NOTE: This provision prohibits cities, villages, and towns from requiring households to use a specific facility to recycle covered electronic devices. It is meant to correspond to sec. 7 of the Minnesota law.

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

17          **287.17 Electronic waste recycling.** (1) DEFINITIONS. In this section:

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

20          (b) "Collection" means the act of receiving covered electronic devices from  
21 households and delivering, or arranging for the delivery of, the covered electronic  
22 devices to a recycler.

1 (c) "Collector" means a person who receives covered electronic devices from  
2 households and delivers, or arranges for the delivery of, the covered electronic  
3 devices to a recycler.

4 (d) "Computer" means a high-speed data processing device for performing  
5 logical, arithmetic, or storage functions, except that "computer" does not include an  
6 automated typewriter or typesetter, a portable hand-held calculator or device, or  
7 other similar device.

8 (e) "Computer monitor" means an electronic device that is a cathode-ray tube  
9 or flat panel display primarily intended to display information from a computer or  
10 the Internet. "Computer monitor" includes a portable computer with a display.

\*\*\*NOTE: I used "computer" in the definition rather than "central processing unit"  
because the latter term is not defined.

11 (f) "Covered electronic device" means any of the following that is used by a  
12 household primarily for personal use:

- 13 1. A computer.
- 14 2. A peripheral.
- 15 3. A facsimile machine.
- 16 4. A digital video disc player.
- 17 5. A video cassette recorder.
- 18 6. A video display device.

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

22 (h) "Household" means one or more individuals who occupy one dwelling unit  
23 in a detached or multiunit building.

1 (i) "Manufacturer" means a person who does any of the following:

2 1. Manufactures video display devices to be sold under the person's own brand.

3 2. Sells video display devices manufactured by others under the person's own  
4 brand.

5 (j) "Peripheral" means a keyboard, printer, or any other device that is sold  
6 exclusively for external use with a computer and that provides input into or output  
7 from a computer.

8 (k) "Program year" means the period from July 1 <sup>e to</sup> the following June 30.

9 (L) "Recycler" means a person who accepts covered electronic devices from  
10 households and collectors for the purpose of recycling. "Recycler" does not include  
11 a manufacturer who accepts products for refurbishing or repair.

12 (m) "Recycling" means preparing covered electronic devices for use in  
13 manufacturing processes or for recovery of useable materials and <sup>e</sup>the delivering the  
14 materials for use. "Recycling" does not include destruction by incineration or other  
15 processes or land disposal of recyclable materials and does not include <sup>e</sup>reuse, repair,  
16 or any other process through which covered electronic devices are returned for use  
17 by households in their original form.

18 (n) "Retailer" means a person who sells a video display device to a household  
19 in this state, in person or by mail, telephone, or the Internet, for use by the household.

20 (o) "Sell" means to transfer title or right to use for consideration.

21 (p) "Television" means an electronic device, with a cathode ray-tube or flat  
22 panel display, primarily intended to receive video programming via broadcast, cable,  
23 or satellite transmission or to receive video images from surveillance or similar  
24 cameras.

1 (q) "Video display device" means a television or computer monitor with a tube  
2 or screen that is at least 9 inches in its longest diagonal measurement and that is  
3 marketed by the manufacturer for use by households, except that "video display  
4 device" does not include any of the following:

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

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

11 (2) REQUIREMENTS FOR SALE OF VIDEO DISPLAY DEVICES. (a) *Manufacturers*.  
12 Beginning on September 1, 2008, a manufacturer may not sell, offer to sell, or deliver  
13 to retailers for subsequent sale a new video display device unless all of the following  
14 apply:

15 1. The manufacturer permanently affixes a label to the video display device  
16 that is readily visible and that shows the manufacturer's brand.

17 2. The manufacturer is registered with the department in accordance with sub.  
18 (3).

19 3. The manufacturer pays the fee under sub. (4).

20 4. The manufacturer collects and recycles or arranges for the collection and  
21 recycling of covered electronic devices used by households in this state.

22 5. Individuals are not charged a fee when they relinquish covered electronic  
23 devices for collection and recycling under subd. 4.

24 6. The manufacturer reports as required under sub. (5) and conducts  
25 assessments as required under sub. (6).

1 *check* (b) *Cooperation.* A manufacturer may carry out its responsibilities under par.  
2 (a) 4. jointly with other manufacturers and may participate with other  
3 manufacturers in creating an entity to collect and recycle covered electronic devices.

4 (c) *Retailers.* 1. Beginning on February 1, 2009, a retailer may not sell or offer  
5 for sale a new video display device unless, before making the first offer for sale, the  
6 retailer has reviewed the Internet site maintained by the department under sub. (10)  
7 (a) and determined that the brand of the video display device is listed on the  
8 department's Internet site under sub. (10) (a).

9 2. If a manufacturer's registration is revoked or expired and the retailer took  
10 possession of a video display device of the manufacturer before the registration was  
11 revoked or expired, the retailer may sell the video display device, but only if the sale  
12 takes place fewer than 180 days after the revocation or expiration.

13 (3) REGISTRATION OF MANUFACTURERS. (a) To comply with sub. (2) (a) 2., a  
14 manufacturer shall annually, no later than September 1, submit to the department  
15 a registration that includes all of the following:

16 1. A list of the manufacturer's brands of video display devices offered for sale  
17 in this state.

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

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

22 (b) Beginning with the registration due by September 1, 2009, a manufacturer  
23 shall include in its registration under par. (a) a statement disclosing whether any of  
24 its video display devices contain lead, mercury, cadmium, hexavalent chromium,  
25 polybrominated biphenyls, or polybrominated diphenyl ethers and, if so, whether the

1 amount of any of those substances exceeds a maximum concentration level provided  
2 under the Annex to European Union Directive 2002/95/EC and whether there is an  
3 exemption in the Annex to European Union Directive 2002/95/EC permitting those  
4 substances to be used in the manner in which they are used in the manufacturer's  
5 video display devices.

6 (c) Notwithstanding the deadline in par. (a), a manufacturer who begins selling  
7 video display devices after September 1, 2008, and who has not previously submitted  
8 a registration under this subsection shall submit a registration to the department  
9 not more than 10 days after the day on which the manufacturer begins selling or  
10 offering to sell video display devices.

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

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

16 (f) The department shall review a registration submitted under this section and  
17 notify the manufacturer if the registration does not contain all of the information  
18 required under this subsection. A manufacturer who receives notice under this  
19 paragraph shall submit the information within 30 days after the day on which it  
20 receives the notice.

21 **(4) MANUFACTURER FEE; RECYCLING CREDITS.** (a) *Payment.* To comply with sub.  
22 (2) (a) 3., a manufacturer shall pay, with the registration that it submits under sub.  
23 (3), an annual registration fee in the amount provided in this subsection.

1 (b) *First year.* The registration fee due in 2008, or the first year that a  
2 manufacturer registers if later than 2008, is \$5,000, except that, if the manufacturer  
3 produces fewer than 100 video display devices annually, the fee is \$1,250.

4 (c) *Subsequent years.* The registration fee due in each year after the year in  
5 which a manufacturer pays the fee under par. (b) is a base fee plus the variable fee  
6 calculated under par. (d), if the amount calculated under par. (d) is a positive number.  
7 The base fee is \$2,500, except that, if the manufacturer produces fewer than 100 video  
8 display devices annually, the base fee is \$1,250.

9 (d) *Variable fee.* The variable fee for a manufacturer is calculated as follows:

10 1. Determine the manufacturer's target recycling weight by multiplying the  
11 number of pounds of the manufacturer's video display devices sold to households in  
12 this state during the previous program year, as reported under sub. (5) (a), by 0.6 for  
13 the program year ending on June 30, 2009, and by 0.8 for every other program year.

14 2. Determine the actual recycling weight by adding the number of pounds of  
15 covered electronic devices recycled by or on behalf of the manufacturer, as reported  
16 under sub. (5) (b), plus the number of recycling credits that a manufacturer elects to  
17 use, as reported to the department under sub. (5) (c) 3.

18 3. Subtract the actual recycling weight, determined under subd. 2., from the  
19 target recycling weight determined under subd. 1.

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

22 a. Fifty cents per pound for a manufacturer if the number of pounds of covered  
23 electronic devices collected by or on behalf of the manufacturer, as reported under  
24 sub. (5) (b), is less than 50 percent of the target recycling weight determined under  
25 subd. 1.



1           b. Forty cents per pound for a manufacturer if the number of pounds of covered  
2           electronic devices collected by or on behalf of the manufacturer, as reported under  
3           sub. (5) (b), is at least 50 percent but not more than 90 percent of the target recycling  
4           weight determined under subd. 1.

5           c. Thirty cents per pound for a manufacturer if the number of pounds of covered  
6           electronic devices collected by or on behalf of the manufacturer, as reported under  
7           sub. (5) (b), is more than 90 percent of the target recycling weight determined under  
8           subd. 1.

9           (e) *Recycling credits.* If, for a program year, the number of pounds of covered  
10          electronic devices recycled by or on behalf of a manufacturer, as reported under sub.  
11          (5) (b), exceeds the target recycling weight determined under par. (d) 1., the  
12          manufacturer has a number of recycling credits equal to the number of excess  
13          pounds. The manufacturer may use the credits for the purpose of par. (d) 2. for any  
14          of the ~~three~~<sup>3</sup> succeeding program years or may sell credits to another manufacturer  
15          for use for any of the ~~three~~<sup>3</sup> succeeding program years.

16          **(5) MANUFACTURERS REPORTING REQUIREMENTS.** (a) *Weight of video display*  
17          *devices sold.* 1. No later than September 1 of each year, beginning in 2009, a  
18          manufacturer shall report one of the following to the department:

19           a. The total weight of each model of its video display devices sold to households  
20           in this state during the previous program year.

21           b. The total weight of all of its video display devices sold to households in this  
22           state during the previous program year.

23           c. An estimate of the total weight of its video display devices sold to households  
24           in this state during the previous program year based on national sales data.

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

3           (b) *Weight of covered electronic devices collected and recycled.* ✓ No later than  
4 September 1 ✓ of each year, beginning in 2009 ✓, a manufacturer shall report to the  
5 department the total weight of covered electronic devices that the manufacturer  
6 collected from households in this state and recycled or arranged to have collected  
7 from households in this state and recycled during the preceding program year.

8           (c) *Recycling credits.* ✓ No later than ✓ September 1 of each year, beginning in  
9 2009 ✓, a manufacturer shall report all of the following to the department. ✓

10           1. The number of recycling credits that the manufacturer purchased during the  
11 preceding program year. ✓

12           2. The number of recycling credits that the manufacturer sold during the  
13 preceding program year. ✓

14           3. The number of recycling credits that the manufacturer elects to use in the  
15 calculation of its variable recycling fee for the preceding program year. ✓

16           4. The number of recycling credits available to the manufacturer after  
17 calculating its variable recycling fee for the prior program year. ✓

18           (6) MANUFACTURER ASSESSMENT REQUIREMENTS. ✓ A manufacturer shall conduct  
19 and document assessments of the performance of any collectors and recyclers with  
20 whom it contracts, including assessments of whether the recyclers comply with sub.

21 (8) (c). ✓ A manufacturer shall maintain, for 3 ✓ years, documentation of its assessments  
22 under this subsection.

23           (7) COLLECTORS. (a) *Registration.* ✓ 1. Beginning on August 1, 2008 ✓, no person  
24 may operate as a collector unless the person submits to the department an annual

1 registration, using a form<sup>✓</sup> prescribed by the department, that includes all of the  
2 following:

- 3 a. The name, address, and contact information of a responsible individual.<sup>✓</sup>  
4 b. The address at which the person operates as a collector.<sup>✓</sup>  
5 c. A certification that the person has complied, and will continue to comply, with  
6 the requirements of this subsection.<sup>✓</sup>

7 2. A registration is effective on receipt by the department and is valid until the  
8 following August 1<sup>✓</sup> unless revoked before that date.

9 (b) *Reporting*.<sup>✓</sup> No later than August 1<sup>✓</sup> of each year, beginning in 2009, a collector  
10 shall report to the department the total weight of covered electronic devices collected  
11 in this state during the preceding program year and a list of all recyclers to whom  
12 the collector delivered covered electronic devices.<sup>✓</sup>

13 (8) <sup>(a)</sup> RECYCLERS. *Registration*.<sup>✓</sup> 1. Beginning on August 1, 2008,<sup>✓</sup> no person may  
14 operate as a recycler unless the person submits to the department an annual  
15 registration, using a form prescribed by the department, that includes all of the  
16 following:

- 17 a. The name, address, and contact information of a responsible individual.<sup>✓</sup>  
18 b. The address of all facilities at which the person conducts recycling.<sup>✓</sup>  
19 c. A certification that the person has complied, and will continue to comply, with  
20 the requirements of this subsection.<sup>✓</sup>

21 2. A registration is effective on receipt by the department and is valid until the  
22 following August 1<sup>✓</sup> unless revoked before that date.

23 (b) *Reporting*.<sup>✓</sup> No later than August 1<sup>✓</sup> of each year, beginning in 2009,<sup>✓</sup> a recycler  
24 shall report to the department the total weight of covered electronic devices collected  
25 in this state that the recycler recycled during the preceding program year.<sup>✓</sup>

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

4 2. A recycler may not use prison labor to recycle covered electronic devices.

\* \*\*\*\*NOTE: The Minnesota law has an exception for a nonprofit corporation that  
contracts with a correctional institution for refurbish and reuse donated computers in  
schools. Refurbishing computers does not fall within the definition of recycling in the law,  
so no exception is needed, although there would be some computers that would not be able  
to be refurbished and those might be recycled through the program. Also, I understand  
that the Department of Corrections has prisoners conducting refurbishing of computers.  
I am not aware that this is done under a contract with a nonprofit corporation and I  
believe that the computers are sold to other governmental and nonprofit entities in  
addition to schools.

5 (d) *Certification.* No later than August 1 of each year, beginning in 2009, a  
6 recycler shall submit to the department a certification that states that the recycler,  
7 and all persons who conduct recycling activities on covered electronic devices or  
8 materials derived from covered electronic devices after the recycler completes its  
9 recycling activities on the covered electronic devices or materials:

10 1. Comply with applicable health, environmental, safety, and financial  
11 responsibility requirements;

12 2. Have all required governmental licenses or other approvals;

13 3. Possess liability insurance coverage in the amount of at least \$1,000,000 for  
14 environmental releases; and

15 4. Use no prison labor to recycle covered electronic devices.

\*\*\*\*NOTE: The Minnesota law refers to "downstream recycling operations." I have  
tried to capture what that means in the introduction to par. (d).

16 (9) **RETAILERS.** (a) *Reporting to manufacturers.* No later than August 1 of each  
17 year, beginning in 2009, a retailer shall report to a manufacturer, using a form  
18 specified by the department, the number of video display devices, by model, labeled

1 with the manufacturer's brand that the retailer sold to households in this state  
2 during the previous program year.

\*\*\*\*NOTE: The program year only ends on June 30, so the Minnesota requirement that retailers report by July 1 seems impossible.

3 (b) *Providing information to purchasers.* A retailer who sells new video display  
4 devices for use by households shall provide information describing how video display  
5 devices can be collected and recycled and a description of the prohibitions in s. 287.07  
6 (5). A retailer may satisfy this requirement by providing a toll-free number for  
7 receiving the information and a description of how to access the department's  
8 Internet site under sub. (10) (a). A retailer who sells through a catalogue may  
9 provide the information in the catalogue. A retailer who sells through the Internet  
10 may provide the information on its Internet site.

\*\*\*\*NOTE: I added the requirement that retailers provide information about the landfill ban. Please let me know if you want me to delete that.

11 (10) POWERS AND DUTIES OF THE DEPARTMENT. (a) *Internet site.* The department  
12 shall maintain an Internet site on which the department lists the names of  
13 manufacturers who are registered under sub. (3) and the names of the brands listed  
14 in the manufacturers' registrations. The department shall update the information  
15 on the Internet site promptly upon receipt of a new or revised registration. The  
16 department shall include on the Internet site a statement that this section applies  
17 only to video display devices sold for household use and that the list of manufacturers  
18 is not a list of manufacturers qualified to sell video display devices for industrial,  
19 commercial, or other nonhousehold uses. The department shall also include on the  
20 Internet site the contact information provided by manufacturers under sub. (3) (a)  
21 2.

1 (b) *Providing information.* The department shall make the information  
2 provided in registration statements and reports under subs. (3), (5), (7), and (8)  
3 available to manufacturers, retailers, and the public.

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

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

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

9 c. The base registration fee under sub. (4) (c).

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

15 (d) *Annual report.* Before December 1 of each year, beginning in 2011, the  
16 department shall provide a report on the program under this section to the  
17 legislature under s. 13.172 (2) and to the governor. The department shall include all  
18 of the following in the report:

19 1. The total weight of covered electronic devices recycled.

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

22 3. Information concerning the collection programs used by manufacturers to  
23 collect covered electronic devices.

24 4. Information concerning the collection of covered electronic devices by  
25 persons other than registered manufacturers, collectors, and recyclers.

1           5. Information about any disposal of covered electronic devices in landfills in  
2 this state.

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

4           (e) *Report concerning federal legislation.* If a federal law relating to the  
5 collection and recycling of video display devices sold in the United States is enacted,  
6 the department shall prepare a report describing the effect of the federal law and  
7 shall submit the report under s. 13.172 (3) to the committee of each house of the  
8 legislature with jurisdiction over solid waste policy.

9           (f) *Outreach and communication.* The department shall promote public  
10 participation in the collection and recycling of covered electronic devices by and on  
11 behalf of manufacturers through education and outreach activities. The department  
12 shall facilitate communications between local governments, persons operating solid  
13 waste collection and recycling centers, and manufacturers to ensure that  
14 manufacturers are aware of covered electronic devices that are available for  
15 recycling.

16           (g) *Cooperation with other states.* The department may cooperate with other  
17 states to effectuate the program under this section.

18           (h) *Revocation.* The department shall revoke the registration of a  
19 manufacturer who violates sub. (2)(a), (3), (4), (5), or (6). The department may  
20 revoke the registration of a collector or recycler who violates sub. (7) or (8).

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

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

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

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

4           History: 1989 a. 335; 1993 a. 75; 1995 a. 227 s. 919; ~~Stats.~~ 1995 s. 287.91.

4           **SECTION 8.** 287.97 of the statutes is amended to read:

5           **287.97 Penalties.** Any person who violates this chapter, except s. 287.07,  
 6           287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under  
 7           s. 287.07, 287.08 or 287.81, may be required to forfeit not less than \$10 nor more than  
 8           \$1,000 for each violation.

9           History: 1989 a. 335; 1995 a. 227 s. 922; Stats. 1995 s. 287.97.

9           \*\*\*NOTE: Don't forget to add something about revocation of registrations.



*DNW*

10

(END)



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

LRB-3058/P1dn

RCT:.....

date

Jld

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 this section 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, 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 the department with any new positions to administer the proposal. \*

Please contact me with any questions or redraft instructions. ✓

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

**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.

Rebecca C. Tradewell

Managing Attorney

Phone: (608) 266-7290

E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

## **Tradewell, Becky**

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**From:** Miller, Mark  
**Sent:** Tuesday, November 27, 2007 3:07 PM  
**To:** Tradewell, Becky  
**Cc:** Anderson, John  
**Subject:** RE: E-Waste, changes to preliminary draft

Ms Tradewell,

The urban counties under the bill are:

Brown  
Calumet  
Dane  
Eau Claire  
Fond du Lac  
Jefferson  
Kenosha  
Manitowoc  
Milwaukee  
Outagamie  
Ozaukee  
Racine  
Rock  
Sheboygan  
Walworth  
Washington  
Waukesha  
Winnebago

This is more than the original instructions below, but the break in population density is much more significant below 139 per square mile than below 150 per square mile.

Recyclers and collectors must certify that they meet the financial responsibility requirements of NR666.910

### ***Sen. Mark Miller***

*608-266-9170, Toll-free 877-862-4825*

*FAX 608-266-5087*

*Sen.Miller@legis.wi.gov*

---

**From:** Miller, Mark  
**Sent:** Tuesday, November 27, 2007 2:09 PM  
**To:** Tradewell, Becky  
**Cc:** Anderson, John  
**Subject:** E-Waste, changes to preliminary draft

Ms Tradewell,

Thank you for redrafting the E-Waste bill to be congruent with the legislation adopted recently in Minnesota. I have reviewed the provisions of the resulting draft with a number of interested parties. You did a good job and everyone was very impressed. As a result of these conversations I request the changes outlined below. I am anxious to have the draft as soon as possible so that the bill can be circulated and introduced before the end of the year. I hope that the changes requested herein can be made and a final draft ready not later than Wednesday, December 5. I do not yet have the information needed to include a performance standard of practice for recyclers, but hope to within the next two days. If this is not ready in time, I will include it as an amendment, but I do not want to delay introduction of the bill while this information is developed.

In summary, the changes I am requesting:

In response to input from Wisconsin's recyclers, I am asking that the reconciliation of accounts (sales, collections, recycled e-waste) be done quarterly rather than annually. This should encourage more rapid development of recycling services.

Wisconsin counties except the fourteen most populous. The bill authorizes two FTE to administer the program.

Instructions incorporating these changes follow:

- ✓ 1. Page 2, line 20 add a definition for camera (records images and is designed for use as a hand held device?)
- ✓ 2. Page 4, line 9, add to the definition of manufacturer a person who licenses use of a brand name for display on a video display device.
- ✓ 3. Add to the description of electronic devices prohibited in landfills (page 2, lines 12-15) and covered electronic devices (page 3, lines 19 - 22):
  - d. digital video disc player to include digital video recorders or players other than cameras that do not use a disc.
  - e. a video cassette recorder to include video recorders or players other than cameras that do use a cassette.
  - ✓ h. Electronic equipment identified by the department by rule. (add rule-making authority, if necessary)
- ✓ 4. page 4, line 3, add definition for electronic equipment (equipment that requires electric current or electromagnetic fields to function and contains a circuit board)
5. Make the reconciliation of accounts a quarterly process as follows:
  - ✓ a. Program quarters begin on Jan 1, Apr 1, Jul 1, and Oct 1 of each year and end respectively on last day of Mar, Jun, Sep, and Dec.
  - ✓ b. Beginning August 1, 2009 and quarterly thereafter, retailers report sales during the previous program quarter to manufacturers in a format specified or approved by the department before the first day of the month following the of the end of each program quarter.
  - c. Beginning Sept 1, 2009 and quarterly thereafter, manufacturers report the information required in section 5.
  - d. Manufacturers pay the variable recycling fee quarterly, payable at the time their report is due to the department.
  - e. Manufacturers may choose to report and pay the variable fee annually as indicated under the current draft except recycling cost is 55 cents for less than 50%, 44 cents for 50% to 90 % and 33 cents for greater than 90%.
  - f. Manufacturers who pay the variable fee quarterly and timely may, at the end of the program year, recalculate their variable fee based on annual performance and credit any overpayment to the final quarterly variable fee.
  - ✓ g. Page 12, lines 3-5, Beginning on August 1, and quarterly thereafter, recyclers report the total weight of devices recycled during the preceding program quarter.
  - ✓ h. Page 11, lines 13-16, beginning August 1, 2009, and quarterly thereafter, a collector reports the total weight of covered electronic devices collected during the preceding program quarter.
  - i. Page 14 line 12: add: (d) the multiplier (see (5) below) for rural counties, (e) the designation of rural counties or other underserved areas
6. I want to add a 1.5 multiplier to apply to the weight of product collected in rural counties and recycled. Rural counties are those which have a population density of less than 150 per square mile. Identify the non-rural counties by name rather than by criteria. The remaining counties are rural. This is similar to the provision in Minnesota
- ✓ 7. page 8, line 6 and page 8, line 10-11. replace "produces fewer than 100 video display devices annually," with "sells fewer than 100 video display devices in Wisconsin annually,"
- ✓ 8. Page 12, line 21, add: That covered electronic waste is not exported to any country that is not a member of the Organization for Economic Cooperation and Development unless the recycler certifies that the that the covered electronic waste is in working order and is destined for direct reuse.
- ✓ 9. Authorize DNR two FTE to administer the program.
- ✓ 10. Authorize DNR to expend the funds collected to administer the program and to use existing recycling revenue as a bridge to fund positions until sufficient fee revenue is generated.
11. Authorize DNR to perform or contract for periodic audits of recyclers and collectors with 25% cost share borne by the audited entity during the first three years of the program or for newly certified collectors and recyclers the first three years of certification. Subsequent audits are cost shared 50/50.

I am still working to develop standards for recyclers for incorporation into the bill and hope to provide those to you within a day or so. These standards will be subject to modification by rule.

In response to your question regarding banning the land filling of telephones but not including telephones in covered electronic waste, telephones are included in the landfill ban but not in the covered electronic equipment because while telephones, particularly cell phones, are a significant component of electronic waste entering landfills, the marketing of cellular phones is different than other electronic devices. There is currently a growing cell phone collection effort by retailers. It is my hope that banning phones from landfills will further encourage this collection effort.

<< File: 07-3058P1.pdf >>

**Sen. Mark Miller**

PO Box 7882, Madison, WI 53707-7882

608-266-9170, Toll-free 877-862-4825

FAX 608-266-5087

**Sen. Mark Miller**

*PO Box 7882, Madison, WI 53707-7882*

*608-266-9170, Toll-free 877-862-4825*

*FAX 608-266-5087*

*Sen.Miller@legis.wi.gov*

## Tradewell, Becky

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**From:** Miller, Mark  
**Sent:** Wednesday, November 28, 2007 10:39 AM  
**To:** Tradewell, Becky  
**Cc:** Anderson, John  
**Subject:** RE: E-Waste, changes to preliminary draft

Becky,

I understand that a quarterly reconciliation is more difficult to draft. The instructions allow the manufacturer to recompute his variable fee at year's end to capture the annual performance. If the variable fee for the annual computation is less than the variable fee owed as the annual sum of quarterly computations, then the difference can be applied as a credit to the fourth quarter payment. The per-pound cost to recycle for this year-end recomputation remains at the more favorable quarterly rate in consideration of the manufacturer submitting quarterly reports and fee payments.

With respect to who is a manufacturer, whoever's name is on the device is the manufacturer. If HP licenses its name to Circuit City and Circuit City contracts with Compaq to manufacture devices with HP's brand on it, HP is the manufacturer. This is consistent with the provision that a retailer is the manufacturer if he puts his retail brand on the device. The impact of this definition can be accounted for in the license agreements. Most license agreements have clauses related to adjustment if laws impact the value of the agreement. MN alerted us to this definitional shortcoming in their law. The MN law did not anticipate that brand-owners were licensing their brand names to other entities.

Mark

### ***Sen. Mark Miller***

608-266-9170, Toll-free 877-862-4825

FAX 608-266-5087

*Sen.Miller@legis.wi.gov*

---

**From:** Tradewell, Becky  
**Sent:** Wednesday, November 28, 2007 9:28 AM  
**To:** Miller, Mark  
**Cc:** Anderson, John  
**Subject:** RE: E-Waste, changes to preliminary draft

Sen. Miller,

I will do my best to get this out to you by next Wednesday, but I am not certain that it will be possible. I do have other drafting that must be done between now and then.

Also, based on an initial review, the changes that must be made to the draft relating to the fee, especially relating to providing for quarterly payment, appear to be very complex to draft. For one thing, I am uncertain how the recycling credits would fit into a quarterly payment system. It seems that it would be difficult to use credits for the first three quarters because the use of credits might not ultimately be necessary, based on the full year's results. However, if a manufacturer paid a fee for the first three quarters and then was able to acquire enough credits to owe no fee for the year, it seems that DNR would have to refund the earlier payments.

One specific question at this point: On the addition to the definition of manufacturer, is the manufacturer the company that allows its brand to be used by someone else (and that someone else sells the device)? Or is the manufacturer the company that sells devices it makes under someone else's brand?

I will contact you with any additional questions.

Becky Tradewell  
266-7290

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**From:** Miller, Mark  
**Sent:** Tuesday, November 27, 2007 3:07 PM





State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3058/P

RCT:jld:rnw

→ Wanted Noon Fri, 11/30

bk

✓MV

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION ✓

INSERTS

SA ✓

→ regen. cat.

D-note

1 AN ACT to amend 287.91 (2) and 287.97; and to create 16.71 (7), 20.370 (2) (hr),  
2 25.49 (1m), 287.07 (5), 287.13 (5) (i) and 287.17 of the statutes; relating to: the  
3 disposal, collection, and recycling of electronic devices, making an  
4 appropriation, and providing penalties.

---

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version. ✓

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

5 SECTION 1. 16.71 (7) of the statutes is created to read:  
6 16.71 (7) The department, any other designated purchasing agent under sub.  
7 (1), and each authority, may not purchase a video display device, as defined in s.  
8 287.17 (1) (q), unless the manufacturer of the video display device is registered with  
9 the department of natural resources under s. 287.17 (3).  
10 SECTION 2. 20.370 (2) (hr) of the statutes is created to read:

1 20.370 (2) (hr) *Electronic waste recycling*. From the recycling fund, all moneys  
2 received under s. 287.17 (4) <sup>and (10), (j)</sup> for administration of the electronic waste recycling  
3 program under s. 287.17.

4 SECTION 3. 25.49 (1m) of the statutes is created to read:

5 25.49 (1m) The ~~fees imposed~~ <sup>money received</sup> under s. 287.17 (4) <sup>and (10), (j)</sup>.

6 SECTION 4. 287.07 (5) of the statutes is created to read:

7 287.07 (5) ELECTRONIC DEVICES. Beginning on September 1, 2009, no person  
8 may dispose of any of the following in a solid waste disposal facility:

9 (a) A computer, as defined in s. 287.17 (1) (d).

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

11 (c) A facsimile machine.

12 (d) A digital video disc player.

13 (e) A video cassette recorder.

14 (f) A video display device, as defined in s. 287.17 (1) (q).

15 (g) A telephone with a video display.

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

17 287.13 (5) (i) Solid waste that consists of covered electronic devices, as defined  
18 in s. 287.17 (1) (f), used by households.

\* **NOTE:** This provision prohibits cities, villages, and towns from requiring households to use a specific facility to recycle covered electronic devices. It is meant to correspond to sec. 7 of the Minnesota law.

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

20 **287.17 Electronic waste recycling.** (1) DEFINITIONS. In this section:

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

1 (b) "Collection" means the act of receiving covered electronic devices from  
2 households and delivering, or arranging for the delivery of, the covered electronic  
3 devices to a recycler.

4 (c) "Collector" means a person who receives covered electronic devices from  
5 households and delivers, or arranges for the delivery of, the covered electronic  
6 devices to a recycler.

7 (d) "Computer" means a high-speed data processing device for performing  
8 logical, arithmetic, or storage functions, except that "computer" does not include an  
9 automated typewriter or typesetter, a portable hand-held calculator or device, or  
10 other similar device.

11 (e) "Computer monitor" means an electronic device that is a cathode-ray tube  
12 or flat panel display primarily intended to display information from a computer or  
13 the Internet. "Computer monitor" includes a portable computer with a display.

\* **NOTE:** I used "computer" in the definition rather than "central processing unit" because the latter term is not defined.

14 (f) "Covered electronic device" means any of the following that is used by a  
15 household primarily for personal use:

- 16 1. A computer
- 17 2. A peripheral.
- 18 3. A facsimile machine.
- 19 4. A digital video disc player.
- 20 5. A video cassette recorder.
- 21 6. A video display device.

Insert  
3-19

Insert  
3-20

Insert  
3-21

1 (g) " Dwelling unit" means a single unit providing complete, independent living  
2 facilities for one or more persons, including permanent provisions for living,  
3 sleeping, eating, cooking, and sanitation.

4 (h) "Household" means one or more individuals who occupy one dwelling unit  
5 in a detached or multiunit building.

6 (i) "Manufacturer" means a person who does any of the following:

7 1. Manufactures video display devices to be sold under the person's own brand.

8 2. Sells video display devices manufactured by others under the person's own  
9 brand.

10 (j) "Peripheral" means a keyboard, printer, or any other device that is sold  
11 exclusively for external use with a computer and that provides input into or output  
12 from a computer.

13 (k) "Program year" means the period from July 1 to the following June 30.

14 (L) "Recycler" means a person who accepts covered electronic devices from  
15 households and collectors for the purpose of recycling. "Recycler" does not include  
16 a manufacturer who accepts products for refurbishing or repair.

17 (m) "Recycling" means preparing covered electronic devices for use in  
18 manufacturing processes or for recovery of useable materials and delivering the  
19 materials for use. "Recycling" does not include destruction by incineration or other  
20 processes or land disposal of recyclable materials and does not include reuse, repair,  
21 or any other process through which covered electronic devices are returned for use  
22 by households in their original form.

23 (n) "Retailer" means a person who sells a video display device to a household  
in this state, in person or by mail, telephone, or the Internet, for use by the household.

24 (o) "Sell" means to transfer title or right to use for consideration.  
25

Insert  
4-34

Insert  
4-9

Insert  
4-12

Insert  
4-24

1 (p) "Television" means an electronic device, with a cathode ray-tube or flat  
2 panel display, primarily intended to receive video programming via broadcast, cable,  
3 or satellite transmission or to receive video images from surveillance or similar  
4 cameras.

5 (q) "Video display device" means a television or computer monitor with a tube  
6 or screen that is at least 9 inches in its longest diagonal measurement and that is  
7 marketed by the manufacturer for use by households, except that "video display  
8 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 (2) REQUIREMENTS FOR SALE OF VIDEO DISPLAY DEVICES. (a) *Manufacturers.*  
16 Beginning on September 1, 2008, a manufacturer may not sell, offer to sell, or deliver  
17 to retailers for subsequent sale a new video display device unless all of the following  
18 apply:

19 1. The manufacturer permanently affixes a label to the video display device  
20 that is readily visible and that shows the manufacturer's brand.

21 2. The manufacturer is registered with the department in accordance with sub.  
22 (3).

23 3. The manufacturer pays the fee under sub. (4).

24 4. The manufacturer collects and recycles or arranges for the collection and  
25 recycling of covered electronic devices used by households in this state.

Insert  
5-4

1           5. Individuals are not charged a fee when they relinquish covered electronic  
2 devices for collection and recycling under subd. 4.

3           6. The manufacturer reports as required under sub. (5) and conducts  
4 assessments as required under sub. (6).

5           (b) *Cooperation.* A manufacturer may carry out its responsibilities under par.  
6 (a) 4. jointly with other manufacturers and may participate with other  
7 manufacturers in creating an entity to collect and recycle covered electronic devices.

8           (c) *Retailers.* 1. Beginning on February 1, 2009, a retailer may not sell or offer  
9 for sale a new video display device unless, before making the first offer for sale, the  
10 retailer has reviewed the Internet site maintained by the department under sub. (10)  
11 (a) and determined that the brand of the video display device is listed on the  
12 department's Internet site under sub. (10) (a).

13           2. If a manufacturer's registration is revoked or expired and the retailer took  
14 possession of a video display device of the manufacturer before the registration was  
15 revoked or expired, the retailer may sell the video display device, but only if the sale  
16 takes place fewer than 180 days after the revocation or expiration.

17           **(3) REGISTRATION OF MANUFACTURERS.** (a) To comply with sub. (2) (a) 2., a  
18 manufacturer shall annually, no later than September 1, submit to the department  
19 a registration that includes all of the following:

20           1. A list of the manufacturer's brands of video display devices offered for sale  
21 in this state.

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

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

1 (b) Beginning with the registration due by September 1, 2009, a manufacturer  
2 shall include in its registration under par. (a) a statement disclosing whether any of  
3 its video display devices contain lead, mercury, cadmium, hexavalent chromium,  
4 polybrominated biphenyls, or polybrominated diphenyl ethers and, if so, whether the  
5 amount of any of those substances exceeds a maximum concentration level provided  
6 under the Annex to European Union Directive 2002/95/EC and whether there is an  
7 exemption in the Annex to European Union Directive 2002/95/EC permitting those  
8 substances to be used in the manner in which they are used in the manufacturer's  
9 video display devices.

10 (c) Notwithstanding the deadline in par. (a), a manufacturer who begins selling  
11 video display devices after September 1, 2008, and who has not previously submitted  
12 a registration under this subsection shall submit a registration to the department  
13 not more than 10 days after the day on which the manufacturer begins selling or  
14 offering to sell video display devices.

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

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

20 (f) The department shall review a registration submitted under this section and  
21 notify the manufacturer if the registration does not contain all of the information  
22 required under this subsection. A manufacturer who receives notice under this  
23 paragraph shall submit the information within 30 days after the day on which it  
24 receives the notice.

① (4) MANUFACTURER FEE<sup>5</sup> RECYCLING CREDITS. (a) *Payment*. To comply with sub.

2 (2) (a) 3., a manufacturer shall pay, with the registration that it submits under sub.

3 (3), an annual registration fee in the amount provided in this subsection.

4 (b) *First year*. The registration fee due in 2008, or the first year that a  
5 manufacturer registers if later than 2008, is \$5,000, except that, if the manufacturer

6 ~~produces~~<sup>9</sup> fewer than 100 video display devices<sup>10</sup> annually, the fee is \$1,250.  
*in this state*

7 (c) *Subsequent years*. The registration fee due in each year after the year in  
8 which a manufacturer pays the fee under par. (b) is a base fee plus the variable fee  
9 calculated under par. (d), if the amount calculated under par. (d) is a positive number.

10 The base fee is \$2,500, except that, if the manufacturer ~~produces~~<sup>11</sup> fewer than 100  
11 video display devices<sup>12</sup> annually, the base fee is \$1,250.  
*in this state*

12 (d) *Variable fee*. The variable fee for a manufacturer is calculated as follows:

13 1. Determine the manufacturer's target recycling weight by multiplying the  
14 number of pounds of the manufacturer's video display devices sold to households in  
15 this state during the previous program year, as reported under sub. (5) (a), by 0.6 for  
16 the program year ending on June 30, 2009, and by 0.8 for every other program year.

17 2. Determine the actual recycling weight by adding the ~~number of pounds~~<sup>18</sup> of  
18 covered electronic devices recycled by or on behalf of the manufacturer, as ~~reported~~<sup>19</sup>  
19 ~~under sub. (5) (b)~~<sup>20</sup>, plus the number of recycling credits that a manufacturer elects to  
20 use, as reported to the department under sub. (5) (c) 3.

21 3. Subtract the actual recycling weight, determined under subd. 2., from the  
22 target recycling weight determined under subd. 1.

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



1 a. Fifty <sup>-five</sup> cents per pound for a manufacturer if the <sup>weight</sup> number of pounds of covered  
 2 electronic devices collected by or on behalf of the manufacturer, as <sup>determined</sup> reported under  
 3 <sup>par. (f)</sup> sub. (5) (b), is less than 50 percent of the target recycling weight determined under  
 4 subd. 1.

5 b. Forty <sup>-four</sup> cents per pound for a manufacturer if the <sup>weight</sup> number of pounds of covered  
 6 electronic devices collected by or on behalf of the manufacturer, as <sup>determined</sup> reported under  
 7 <sup>par. (f)</sup> sub. (5) (b), is at least 50 percent but not more than 90 percent of the target recycling  
 8 weight determined under subd. 1.

9 c. Thirty <sup>-three</sup> cents per pound for a manufacturer if the <sup>weight</sup> number of pounds of covered  
 10 electronic devices collected by or on behalf of the manufacturer, as <sup>determined</sup> reported under  
 11 <sup>par. (f)</sup> sub. (5) (b), is more than 90 percent of the target recycling weight determined under  
 12 subd. 1.

13 (e) *Recycling credits.* If, for a program year, the <sup>weight</sup> number of pounds of covered  
 14 electronic devices recycled by or on behalf of a manufacturer, as <sup>determined</sup> reported under sub.  
 15 <sup>par. (f)</sup> (5) (b), exceeds the target recycling weight determined under par. (d) 1., the  
 16 manufacturer has a number of recycling credits equal to the number of excess  
 17 pounds. The manufacturer may use the credits for the purpose of par. (d) 2. for any  
 18 of the 3 succeeding program years or may sell credits to another manufacturer for  
 19 use for any of the 3 succeeding program years.

Insert  
9-19

20 (5) MANUFACTURERS REPORTING REQUIREMENTS. (a) *Weight of video display*  
 21 *devices sold.* 1. No later than <sup>Insert 9-21</sup> September 1 of each <sup>program</sup> year, beginning <sup>with December 1, 2008</sup> in 2009, a  
 22 manufacturer shall report one of the following to the department:

23 a. The total weight of each model of its video display devices sold to households  
 24 in this state during the previous <sup>quarter</sup> program year.

1 b. The total weight of all of its video display devices sold to households in this  
2 state during the previous program ~~year~~ <sup>quarter</sup>

3 c. An estimate of the total weight of its video display devices sold to households  
4 in this state during the previous program ~~year~~ <sup>quarter</sup> based on national sales data.

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

7 (b) *Weight of covered electronic devices collected and recycled.* No later than  
8 ~~September 1~~ <sup>Insert 10-8 program</sup> of each year, beginning ~~in 2009~~ <sup>with December 1, 2008</sup>, a manufacturer shall report to the  
9 department the total weight of covered electronic devices that the manufacturer  
10 collected from households in this state and recycled or arranged to have collected  
11 from households in this state and recycled during the preceding program ~~year~~ <sup>quarter</sup> ITSA 10-11

12 (c) *Recycling credits.* No later than September 1 of each year, beginning in  
13 2009, a manufacturer shall report all of the following to the department:

14 1. The number of recycling credits that the manufacturer purchased during the  
15 preceding program year.

16 2. The number of recycling credits that the manufacturer sold during the  
17 preceding program year.

18 3. The number of recycling credits that the manufacturer elects to use in the  
19 calculation of its variable recycling fee ~~for the preceding program year.~~ <sup>under sub. (4) (d) 2.</sup>

20 4. The number of recycling credits available to the manufacturer after  
21 calculating its variable recycling fee ~~for the prior program year.~~ <sup>under sub. (4) (d) 2.</sup>

22 (6) MANUFACTURER ASSESSMENT REQUIREMENTS. A manufacturer shall conduct  
23 and document assessments of the performance of any collectors and recyclers with  
24 whom it contracts, including assessments of whether the recyclers comply with sub.

1 (8) (c). A manufacturer shall maintain, for 3 years, documentation of its assessments  
2 under this subsection.

3 (7) COLLECTORS. (a) *Registration*. 1. Beginning on August 1, 2008, no person  
4 may operate as a collector unless the person submits to the department an annual  
5 registration, using a form prescribed by the department, that includes all of the  
6 following:

- 7 a. The name, address, and contact information of a responsible individual.
- 8 b. The address at which the person operates as a collector.
- 9 c. A certification that the person has complied, and will continue to comply, with

10 the requirements of this subsection, *and with applicable financial responsibility requirements*

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

13 (b) *Reporting*. No later than *August 1* of each year, beginning *in 2009*, a  
14 collector shall report to the department the total weight of covered electronic devices  
15 collected in this state during the preceding *program* *with* *November 1, 2008* and a list of all recyclers  
16 to whom the collector delivered covered electronic devices.

17 (8) RECYCLERS. (a) *Registration*. 1. Beginning on August 1, 2008, no person  
18 may operate as a recycler unless the person submits to the department an annual  
19 registration, using a form prescribed by the department, that includes all of the  
20 following:

- 21 a. The name, address, and contact information of a responsible individual.
- 22 b. The address of all facilities at which the person conducts recycling.
- 23 c. A certification that the person has complied, and will continue to comply, with
- 24 the requirements of this subsection.

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

3 (b) *Reporting.* No later than August 1 of each year, beginning in 2009, a recycler  
4 shall report to the department the total weight of covered electronic devices collected  
5 in this state that the recycler recycled during the preceding program year.

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

9 2. A recycler may not use prison labor to recycle covered electronic devices.

\*\*\*\*NOTE: The Minnesota law has an exception for a nonprofit corporation that contracts with a correctional institution to refurbish and reuse donated computers in schools. Refurbishing computers does not fall within the definition of recycling in the law, so no exception is needed, although there would be some computers that would not be able to be refurbished and those might be recycled through the program. Also, I understand that the Department of Corrections has prisoners conducting refurbishing of computers. I am not aware that this is done under a contract with a nonprofit corporation and I believe that the computers are sold to other governmental and nonprofit entities in addition to schools.

10 (d) *Certification.* No later than August 1 of each year, beginning in 2009, a  
11 recycler shall submit to the department a certification that states that the recycler,  
12 and all persons who conduct recycling activities on covered electronic devices or  
13 materials derived from covered electronic devices after the recycler completes its  
14 recycling activities on the covered electronic devices or materials:

15 1. Comply with applicable health, environmental, safety, and financial  
16 responsibility requirements;

17 2. Have all required governmental licenses or other approvals;

18 3. Possess liability insurance coverage in the amount of at least \$1,000,000 for  
19 environmental releases; and

20 4. Use no prison labor to recycle covered electronic devices.

5.

Insert  
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\*

Insert  
12-20

program

with November 1, 2008

Insert 12-3

quarter

and

\*

\*\*\*\*NOTE: The Minnesota law refers to "downstream recycling operations." I have tried to capture what that means in the introduction to par. (d).

Insert 13-1

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(9) RETAILERS. (a) *Reporting to manufacturers.* No later than August 1 of each year, beginning in 2009, a retailer shall report to a manufacturer, using a form specified by the department, the number of video display devices, by model, labeled with the manufacturer's brand that the retailer sold to households in this state during the previous program year.

\*

\*\*\*\*NOTE: The program year only ends on June 30, so the Minnesota requirement that retailers report by July 1 seems impossible.

- 6
- 7

(b) *Providing information to purchasers.* A retailer who sells new video display devices for use by households shall provide information describing how video display devices can be collected and recycled and a description of the prohibitions in s. 287.07

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(5). A retailer may satisfy this requirement by providing a toll-free number for receiving the information and a description of how to access the department's Internet site under sub. (10) (a). A retailer who sells through a catalog may provide the information in the catalog. A retailer who sells through the Internet may provide the information on its Internet site.

\*

\*\*\*\*NOTE: I added the requirement that retailers provide information about the landfill ban. Please let me know if you want me to delete that.

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(10) POWERS AND DUTIES OF THE DEPARTMENT. (a) *Internet site.* The department shall maintain an Internet site on which the department lists the names of manufacturers who are registered under sub. (3) and the names of the brands listed in the manufacturers' registrations. The department shall update the information on the Internet site promptly upon receipt of a new or revised registration. The department shall include on the Internet site a statement that this section applies only to video display devices sold for household use and that the list of manufacturers is not a list of manufacturers qualified to sell video display devices for industrial,

1 commercial, or other nonhousehold uses. The department shall also include on the  
2 Internet site the contact information provided by manufacturers under sub. (3) (a)  
3 2.

4 (b) *Providing information.* The department shall make the information  
5 provided in registration statements and reports under subs. (3), (5), (7), and (8)  
6 available to manufacturers, retailers, and the public.

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

9 a. The number by which the weight of video display devices sold is multiplied  
10 under sub. (4) (d) 1. to determine target recycling weight.

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

12 c. The base registration fee under sub. (4) (c).

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13 2. If the department determines that any of the values under subd. 1. a. to <sup>d e</sup>~~c~~  
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.

18 (d) *Annual report.* Before December 1 of each year, beginning in 2011, 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 covered electronic devices recycled.

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

1           3. Information concerning the collection programs used by manufacturers to  
2 collect covered electronic devices.

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

5           5. Information about any disposal of covered electronic devices in landfills in  
6 this state.

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

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

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

20           (g) *Cooperation with other states.* The department may cooperate with other  
21 states to effectuate the program under this section.

22           (h) *Revocation.* The department shall revoke the registration of a  
23 manufacturer who violates sub. (2) (a), (3), (4), (5), or (6). The department may  
24 revoke the registration of a collector or recycler who violates sub. (7) or (8).

24  
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(a)

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

3 (b) ~~Recycler~~ <sup>Others</sup>. Any person, other than a manufacturer, who violates this section  
4 may be required to forfeit not more than \$1,000 for each violation.

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

6 287.91 (2) Notwithstanding sub. (1) and s. 287.95 (3) (a), the attorney general  
7 may enforce s. 287.07 (3) and, (4), and (5) by seeking injunctive relief against any  
8 person violating those provisions.

9 SECTION 8. 287.97 of the statutes is amended to read:

10 287.97 Penalties. Any person who violates this chapter, except s. 287.07,  
11 287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under  
12 s. 287.07, 287.08 or 287.81, may be required to forfeit not less than \$10 nor more than  
13 \$1,000 for each violation.

Insert  
16-13

(END) ✓

D-note