

## **Tradewell, Becky**

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**From:** Stolzenberg, John  
**Sent:** Monday, February 25, 2008 12:53 PM  
**To:** Tradewell, Becky  
**Cc:** Moore, Cynthia G - DNR; Anderson, John  
**Subject:** Manufacturers' responsibilities under SB 397 sub

Becky,

I talked to Cynthia Moore regarding a couple of items, including a manufacturer's basic responsibilities on page 9, lines 8 and 9 and on page 16, lines 22 to 24. She indicated that a manufacturer can either collect and recycle covered electronic devices itself (in which case, the manufacturer will also have to register as a collector and recycler) or the manufacturer can arrange with a registered recycler to recycle covered electronic devices. In the later situation, the manufacturer's role is, as we discussed earlier today, passive in that the recycler will arrange the needed collection and the manufacturer's role is to pay the recycler for the recycling (and then get credit for that recycling).

I'll include these changes in the revised instructions I'm now working on.

If Cynthia has anything to add to this note, she can reply to it.

John

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John Stolzenberg  
Legislative Council  
266-2988

SENATE BILL 397

to a household

From John J.  
2/25/08 3:30 p.m.

1 to retailers for subsequent sale/a new video display device unless all of the following  
2 apply:

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

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

6 (3).

x refer term?

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

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

Needs to be reconciled with sub. (5)/(6) changes

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

12 6. The manufacturer reports as required under sub. (5) and conducts  
13 assessments as required under sub. (6).

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

15 (a) 4. jointly with other manufacturers and may participate with other  
16 manufacturers in creating an entity to collect and recycle covered electronic devices.

17 (c) Retailers. 1. Beginning on February 1, 2009, a retailer may not sell or offer  
18 for sale/a new video display device unless, before making the first offer for sale, the

19 retailer has reviewed the Internet site maintained by the department under sub. (10)

20 (a) and determined that the brand of the video display device is listed on the  
21 department's Internet site under sub. (10) (a).

22 2. If a manufacturer's registration is revoked or expired and the retailer took  
23 possession of a video display device of the manufacturer before the registration was

24 revoked or expired, the retailer may sell the video display device/ but only if the sale  
25 takes place fewer than 180 days after the revocation or expiration.

to a household

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

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

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

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

10 (b) Beginning with the registration due by September 1, 2009, a manufacturer  
11 shall include in its registration under par. (a) a statement disclosing whether any of  
12 its video display devices <sup>are not in compliance with the</sup> contain lead, mercury, cadmium, <sup>for</sup> hexavalent chromium,  
13 polybrominated biphenyls, or polybrominated diphenyl ethers and, if so, whether the  
14 ~~amount of any of those substances exceeds~~ <sup>in excess of</sup> a maximum concentration level provided  
15 under the Annex to European Union Directive 2002/95/EC and whether there is an  
16 exemption in the Annex to European Union Directive 2002/95/EC permitting those  
17 substances to be used in the manner in which they are used in the manufacturer's  
18 video display devices.

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

Also, drop in item #10 instruction on 2), relating to an exemption. [If a manufacturer has an exemption, it is compliance]

↑  
Keep lines 19 to 23, as is, for new manufacturers.

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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 <sup>complete</sup> registration is effective on receipt by the department and is valid until the  
5 following September 1 unless revoked before that date.

6 (f) The department shall review a registration submitted under this section and  
7 notify the manufacturer if the registration <sup>is not complete</sup> does not contain all of the information  
8 required under this subsection. A manufacturer who receives notice under this  
9 paragraph shall submit the information within 30 days after the day on which it  
10 receives the notice.

11 (4) MANUFACTURER FEES; RECYCLING CREDITS. (a) <sup>Registration fees</sup> ~~Payment~~. To comply with sub.

12 (2) (a) 3., a manufacturer shall pay <sup>registration</sup> fees as provided in this <sup>paragraph</sup> ~~subsection~~.

13 (b) ~~First year.~~ <sup>1.</sup> The fee due in 2008, or the first year that a manufacturer  
14 registers if later than 2008, is \$5,000, except that, if the manufacturer sells fewer  
15 than 100 video display devices in this state annually, the fee is \$1,250. A  
16 manufacturer shall pay the fee under this paragraph with the registration that it  
17 submits under sub. (3).

18 (c) <sup>2.</sup> ~~Subsequent years.~~ In each year after the year in which a manufacturer pays  
19 the fee under <sup>subd. 1.</sup> ~~par. (b)~~, the manufacturer shall pay, with the registration that it  
20 submits under sub. (3), a ~~base~~ fee of \$2,500, except that, if the manufacturer sells  
21 fewer than 100 video display devices in this state annually, the ~~base~~ fee is \$1,250.

22 In addition to the base fee, a manufacturer shall pay variable fees under par. (d) ~~or~~  
23 (dm) if the amount calculated under par. (d) or (dm) is a positive number. With each  
24 registration that a manufacturer submits under sub. (3), the manufacturer shall

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1 state whether it will calculate and pay variable fees on an annual basis under par.  
2 (d) or on a quarterly basis under par. (dm).

change

3 (d) *Annual variable fee.* If a manufacturer calculates variable fees on an annual  
4 basis, the manufacturer shall pay the fees with the registration that it submits under

change name of fee?

5 sub. (3). The variable fee for a manufacturer that chooses to pay on an annual basis  
6 is calculated as follows:

change

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

change  
I think this works

in the previous program year

11 2. Determine the actual recycling weight by adding the weight of covered  
12 electronic devices recycled by or on behalf of the manufacturer, as determined under  
13 par. (f) 1., plus the number of recycling credits that a manufacturer elects to use, as  
14 reported to the department under sub. (5) (c) 3.

15 3. Subtract the actual recycling weight, determined under subd. 2., from the  
16 target recycling weight, determined under subd. 1.

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

19

a. Fifty ~~five~~ cents per pound for a manufacturer if the weight of covered  
20 electronic devices collected by or on behalf of the manufacturer, as determined under  
21 par. (f) 1., is less than 50 percent of the target recycling weight, determined under  
22 subd. 1.

23

b. Forty ~~four~~ cents per pound for a manufacturer if the weight of covered  
24 electronic devices collected by or on behalf of the manufacturer, as determined under

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1 par. (f) 1., is at least 50 percent but not more than 90 percent of the target recycling  
2 weight, determined under subd. 1.

3 c. Thirty-three cents per pound for a manufacturer if the weight of covered  
4 electronic devices collected by or on behalf of the manufacturer, as determined under  
5 par. (f) 1., is more than 90 percent of the target recycling weight, determined under  
6 subd. 1.

7 (dm) Quarterly fee. 1. If a manufacturer calculates variable fees on a quarterly  
8 basis, the manufacturer shall pay the fees with the reports that it submits under sub.  
9 (5) (a), beginning with the report that is due no later than December 1, 2008.

10 2. The quarterly variable fee for a manufacturer for the first 3 quarters of a  
11 program year is calculated as follows:

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

17 b. Determine the actual recycling weight under par. (f) 2.  
18 c. Subtract the actual recycling weight, determined under subd. 2. b., from the  
19 target recycling weight, determined under subd. 2. a.

20 d. Multiply the amount determined under subd. 2. c. by the estimated cost of  
21 recycling determined under subd. 5.

22 3. The quarterly variable fee for a manufacturer for the last quarter of a  
23 program year is calculated as follows:

24 a. Determine the manufacturer's target recycling weight by multiplying the  
25 number of pounds of the manufacturer's video display devices sold to households in

The qtr. fee  
for all 94  
quarters is  
calculated the same  
& added together.

This is  
the same  
amt as  
under  
(d) 1.

change  
rate of  
fee?

each

by quarter

"second year"

in the previous program year

and multiplying the product by 0.15

## SENATE BILL 397

## SECTION 6

1 ~~this state during the previous program year, as reported under sub. (5) (a), by 0.6 for~~  
2 ~~the program year ending on June 30, 2009, and by 0.8 for every other program year.~~

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

7 c. Subtract the actual recycling weight, determined under subd. 3. b., from the  
8 target recycling weight, determined under subd. 3. a.

9 d. Multiply the amount determined under subd. 3. c. by the estimated cost of  
10 recycling determined under subd. 5.

11 e. Determine the total amount of the quarterly fees paid for the first 3 quarters  
12 of the program year.

13 f. If the amount determined under subd. 3. d. is greater than the amount  
14 determined under subd. 3. e., the fee for the last quarter equals the difference. If the  
15 amount determined under subd. 3. d. is equal to or less than the amount determined  
16 under subd. 3. e., the manufacturer is not required to pay a fee for the last quarter.

17 4. If the amount determined under subd. 3. d. is less than the amount  
18 determined under subd. 3. e., the department shall refund the difference to the  
19 manufacturer.

20 5. The estimated cost of recycling is determined as follows:

21 a. Fifty cents per pound for a manufacturer if the number of pounds of covered  
22 electronic devices collected by or on behalf of the manufacturer, as determined under  
23 par. (f) 1. or 2., is less than 50 percent of the target recycling weight, determined  
24 under subd. 2. a. or 3. a.

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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 determined under  
 3           par. (f) ~~1.~~ or 2., is at least 50 percent but not more than 90 percent of the target  
 4           recycling weight, determined under subd. 2. a. ~~or 3. a.~~

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 determined under  
 7           par. (f) ~~1.~~ or 2., is more than 90 percent of the target recycling weight, determined  
 8           under subd. 2. a. ~~or 3. a.~~

9           (e) *Recycling credits.* If, for a program year, the weight of covered electronic  
 10          devices recycled by or on behalf of a manufacturer, as determined under par. (f) 1.,  
 11          exceeds the target recycling weight determined under par. (d) 1. ~~or (dm) 3. a.~~, 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. or (dm)  
 14          3. b. for any of the 3 succeeding program years or may sell credits to another  
 15          manufacturer for use for any of the 3 succeeding program years.

16          (f) *Weight recycled.* 1. The weight of covered electronic devices recycled by or  
 17          on behalf of a manufacturer for a program year is the weight reported under sub. (5)  
 18          (b) for that program year, except that if the manufacturer reports separately the  
 19          weight of covered electronic devices collected <sup>and recycled</sup> from households in rural counties and  
 20          from households in urban counties for a program year the weight is determined by  
 21          adding the weight collected from households in urban counties in that program year  
 22          and 1.5 times the weight collected from households in rural counties in that program  
 23          year.

24          2. The weight of covered electronic devices recycled by or on behalf of a  
 25          manufacturer for a program quarter is the weight reported under sub. (5) (b) for that

Intent is to only  
 create credits  
 for exceeding the  
 annual target.

should  
 "collected"  
 be  
 struck on  
 these  
 lines?



**SENATE BILL 397 #19**

**SECTION 6**

1 program quarter, except that if the manufacturer reports separately the weight of  
 2 covered electronic devices collected from households in rural counties and from  
 3 households in urban counties for a program quarter the weight is determined by  
 4 adding the weight collected from households in urban counties in that program  
 5 quarter and 1.5 times the weight collected from households in rural counties in that  
 6 program quarter.

7 (5) MANUFACTURERS REPORTING REQUIREMENTS. (a) *Weight of video display*  
 8 *devices sold.* 1. No later than ~~December 1~~, ~~March 1~~, ~~June 1~~, and ~~September 1~~ of each  
 9 program year, beginning with ~~December 1~~, 2008, a manufacturer shall report one of  
 10 the following to the department:

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

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

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

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

19 (b) *Weight of covered electronic devices collected and recycled.* No later than  
 20 ~~December 1~~, ~~March 1~~, ~~June 1~~, and ~~September 1~~ of each program year, beginning with  
 21 ~~December 1~~, 2008, a manufacturer shall report to the department the total weight  
 22 of covered electronic devices that the manufacturer collected from households in this  
 23 state and recycled or arranged to have collected from households in this state and  
 24 recycled during the preceding <sup>each quarter in</sup> program <sup>year</sup> quarter. A manufacturer may report  
 25 separately the weight of covered electronic devices collected from households in rural

Reconcile with sub. (5)(b)

In addition to 08-09 exception at bottom of this page, need another exception to (5) based on LRB-3058/2 item  
 to sub. (3)(c), their reporting begins on [unclear] fill this in later. #19 doesn't  
 will be in [unclear]

Receipts reflect new understanding of manufacturer role.

Strike collected?

+ create an exception that the first report under (b) should not include the first quarter in program year, July 1, 2008 to June 30, 2009. & thus for that year variable fees should not be based on 2, 3 & 4 qtrs etc data. Annual fee on these 3 qtrs.

**SENATE BILL 397**

1 counties and from households in urban counties for the purpose of obtaining the  
2 weight adjustment under sub. (4) (f) for covered electronic devices collected from  
3 households in rural counties.

4 (c) *Recycling credits.* No later than September 1 of each year, beginning in  
5 2009, a manufacturer shall report all of the following to the department:

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

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

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

12 4. The number of recycling credits available to the manufacturer after  
13 calculating its variable recycling fee under sub. (4) (d) 2.

14 (6) **MANUFACTURER ASSESSMENT REQUIREMENTS.** A manufacturer shall conduct  
15 and document assessments of the performance of any collectors and recyclers with  
16 whom it contracts, including assessments of whether the recyclers comply with sub.  
17 (8) (c). A manufacturer shall maintain, for 3 years, documentation of its assessments  
18 under this subsection.

Clarify if needed, that  
collector only needs  
to register if  
collecting for  
recycling by a  
registered  
recycler participating  
in a  
registered  
Manufacturer

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

- 23 a. The name, address, and contact information of a responsible individual.
- 24 b. The address at which the person operates as a collector.

From John S.  
2/25/08 5:30 p.m.

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Keep as amended

1 c. A certification that the person has complied, and will continue to comply, with  
 2 the requirements of this subsection and with application financial responsibility  
 3 requirements.  
 4 2. A registration is effective upon receipt by the department and is valid until the

2

→ EPA  
→ repeat lines 14 & 16 on page 19 - without CRT rule reference  
upon compliance with subd. 3 and Par. (com)

5 following August 1 unless revoked before that date.

Insert  
18-5

6 (b) Reporting. No later than November 1, February 1, May 1, and August 1 of  
 7 each program year, beginning November 1, 2008, a collector shall report to the  
 8 department the total weight of covered electronic devices collected in this state  
 9 during the preceding program quarter and a list of all recyclers to whom the collector  
 10 delivered covered electronic devices.

Insert  
18-10  
clerk as amended  
only needed if program created by the bill

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

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

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

21 (b) Reporting. No later than November 1, February 1, May 1, and August 1 of  
 22 each program year, beginning with November 1, 2008, a recycler shall report to the  
 23 department the total weight of covered electronic devices collected in this state that  
 24 the recycler recycled during the preceding program quarter.

If not clear that DNR can require in this report which manufacturer or manufacturers the recycling was done for,

then that should be clarified. [Apparently, a recycler can't recycle on his or her own initiative, report the recycling & claim a credit, which the recycler could subsequently sell to a manufacturer.]

**SENATE BILL 397**

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. <sup>Insert 19-4</sup>

5 3. A recycler may not export covered electronic devices to any country that is  
6 not a member of the Organization for Economic Cooperation and Development  
7 except for covered electronic devices that are in working order and destined for direct  
8 reuse. <sup>4. Insert 19-9</sup>

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

14 1. Comply with applicable health, environmental, safety, and financial  
15 responsibility requirements; <sup>Insert 19-15</sup>

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

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

19 4. Use no prison labor to recycle covered electronic devices; and <sup>Insert 19-19</sup>

20 5. Do not export covered electronic devices to any country that is not a member  
21 of the Organization for Economic Cooperation and Development except for covered  
22 electronic devices that are in working order and destined for direct reuse.

23 (e) *Insert 19-23*  
(9) **RETAILERS.** (a) *Reporting to manufacturers.* No later than November 1,

24 February 1, May 1, and August 1 of each program year, beginning with November  
25 1, 2008, a retailer shall report to a manufacturer, using a format specified or

SENATE BILL 397

1 approved by the department, the number of video display devices, by model, labeled  
2 with the manufacturer's brand that the retailer sold to households in this state  
3 during the previous program quarter.

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

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

22 2.

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

Insert →  
20-22

## Inserts

19-4

if the recycling is reported under sub. (5) (b).

comment: This allows Budget State Industries to voluntarily register under the bill's programs.

19-9

4. ~~Here~~ A recycler shall Insert 19-9 A, next page from FOLIO

5. A recycler shall ~~commit to~~ Insert 19-9 B

6. A recycler shall comply with any other operational requirements specified in rules promulgated by the department.

10-15

, including the requirements in 40 CFR s. 261.39

note: This is "comfort" language for some interested parties to make clear that the key part of EPA's CRT rule on notification of exporting processed CRT glass is included.

10-19

if the recycling is reported under sub. (5) (b).

299.83(3)(d)

(d) (intro.) *Environmental management system.* To be eligible to participate in tier I of the program, an applicant shall do all of the following:

299.83(3)(d)1.

1. (intro.) Demonstrate that it has implemented, or commit itself to implementing within one year of the application, an environmental management system, for each covered facility or activity, that is all of the following:

199A

299.83(3)(d)1.a.

a. In compliance with the standards for environmental management systems issued by the International Organization for Standardization or determined by the department to be a functionally equivalent environmental management system.

recycling  
as defined in s. 299.83(1)(b)

299.83(3)(d)4.

4. Conduct, or commit itself to conducting, annual environmental management system audits, with every 3rd environmental management system audit performed by an outside environmental auditor approved by the department, and commit itself to submitting to the department an annual report on the environmental management system audit that is in compliance with sub. (6m) (a).

199B

at least once every 3 years an

as defined in s. 299.83(1)(b)

that is

as defined in s. 299.83(1)(d)

of its environmental management system identified in subd. 4.

[Note: This is my interpretation of the g. 5 req'ts of item # 23. DNR staff has not called me back on whether the written EMS has to be implemented or what it means to be auditable.]

Cynthia subsequently called & this language is o.k.

the certification under

19-23

(e) direct DNR to review the requirements <sup>under</sup> ~~for~~ parts (c) & (d)

a, as ~~necessary~~ <sup>appropriate</sup>, submit to the legislative council rules

learned no later than 3 years after this

paragraph's effective date, draft rules that

modify or add to the requirements and certification

under parts (c) and (d) as necessary to be at least

equivalent to nationally recognized standards

for recycling covered electronic devices.

Note: This is my redo of (h) in item # 23 on page 10 in the instructions.

→  
this is not in final statutory language



2/26 Per John

1. Manufacturers can only count devices recycled by registered recyclers - out of state recyclers would have to register

2. Collectors have to be registered if they deliver e.e.d. to registered recyclers

3. Use Green Tier model for confidentiality

Senate Substitute Amendment

TODAY to  
if possible

**2007 SENATE BILL 397**

January 17, 2008 - Introduced by Senators MILLER, JAUCH, LASSA, RISSER, LEHMAN, ERPENBACH, TAYLOR and WIRCH, cosponsored by Representatives STONE, SHERMAN, A. OTT, MOLEPSKE, SHILLING, ZEPNICK, BLACK, BERCEAU, HEBL, POCAN, BOYLE, POPE-ROBERTS, BENEDICT, GRIGSBY, HILGENBERG, SCHNEIDER and PARISI. Referred to Committee on Environment and Natural Resources.

regenerate

granting rule-making authority

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

**MANUFACTURERS OF VIDEO DISPLAY DEVICES**

**In general**

This bill imposes a number of requirements on manufacturers of video display devices. A video display device is a television or a computer monitor with a tube or screen that is at least nine inches in the longest diagonal dimension.

Under the bill, beginning on September 1, 2008, a manufacturer may not sell a video display 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.

The bill also, beginning on February 1, 2009, prohibits a retailer from selling a video display device unless the retailer determines, using an Internet site maintained by DNR, that the manufacturer is registered with DNR.

**SENATE BILL 397*****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 2009, the bill requires a manufacturer to disclose, when it registers, whether its video display devices contain certain hazardous substances, including lead and mercury.

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

***Collection and recycling***

The bill requires a manufacturer of video display 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 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 video display devices. The electronic devices that are counted as satisfying a manufacturer's obligation to collect and recycle (covered electronic devices) include, in addition to video display devices, computers, computer peripherals, digital video players, and video recorders. Electronic devices used by businesses do not count toward a manufacturer's obligation to collect and recycle.

Under the bill, a manufacturer may not charge an individual a fee when the individual relinquishes a covered electronic device for collection and recycling.

***Reporting and assessments***

The bill requires a manufacturer to make quarterly reports to DNR of the weight of its video display devices sold to individuals in this state and of the weight of covered electronic devices collected by or on behalf of the manufacturer. The bill also requires a manufacturer to conduct assessments of any collectors and recyclers with whom it contracts.

***Fees***

The bill requires each manufacturer to pay a base fee annually. The fee is generally \$5,000 in 2008 and \$2,500 after 2008.

The bill provides for a variable fee, in addition to the base fee. The amount of the variable fee is based on the weight of a manufacturer's video display devices sold and the weight of covered electronic devices recycled by or on behalf of the manufacturer and on whether the manufacturer pays the variable fee annually or quarterly. The fee is lower if the manufacturer pays quarterly. Manufacturers are allowed to count covered electronic devices collected from individuals in rural counties (identified in the bill) as weighing 1.5 times their actual weight.

If a manufacturer meets its target recycling weight, which is 0.6 times the weight of its video display devices sold the first year and 0.8 times the weight of its video display devices sold after the first year, it is not required to pay a variable 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.

**SENATE BILL 397*****Penalties***

A manufacturer may be required to pay a civil monetary penalty (forfeiture) 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.

**COLLECTORS**

The bill requires collectors to register annually with DNR. A collector receives covered electronic devices from individuals and delivers them to recyclers. The bill requires a collector to certify annually that it complies with the requirements in the bill and with applicable financial responsibility requirements. The bill also requires a collector to report to DNR on a quarterly basis the total weight of covered electronic devices collected and the names of recyclers to whom the collector delivered covered electronic devices.

**RECYCLERS**

The bill requires recyclers to register annually with DNR. A recycler accepts covered 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 certify annually that it complies with the requirements in the bill and with applicable health, environmental, safety, and financial responsibility requirements.

The bill requires a recycler to maintain liability insurance. It prohibits a recycler from using prison labor to recycle and from exporting covered electronic devices to countries that are not members of the Organization for Economic Cooperation and Development.

The bill requires a recycler to report to DNR on a quarterly basis the total weight of covered electronic devices collected in this state that it recycles.

**RETAILERS**

The bill requires a retailer to report to a manufacturer, on a quarterly basis, the number of the manufacturer's video display devices, by model, that the retailer sold to individuals in this state.

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

**OTHER PROVISIONS*****Landfill ban***

Current law prohibits various items, including lead acid batteries and major appliances, from being disposed of in landfills. This bill prohibits the disposal in landfills of televisions, computer monitors, computers, computer peripherals, facsimile machines, digital video players, video recorders, and telephones with video displays. The prohibition takes effect on September 1, 2009. 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.

**SENATE BILL 397**

**Audits**

This bill authorizes DNR to perform or contract for the performance of an audit of the activities of a collector or a recycler. The bill requires the collector or recycler to pay a portion of the cost of the audit.

**State purchasing**

This bill prohibits a state agency from purchasing a television or a computer monitor unless the manufacturer is registered with DNR, as required by the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

**SECTION 1.** 16.71 (7) of the statutes is created to read:

16.71 (7) Beginning on September 1, 2008, the department, any other designated purchasing agent under sub. (1), and each authority, may not purchase a video display device, as defined in s. 287.17 (1) (q), unless the manufacturer of the video display device is registered with the department of natural resources under s. 287.17 (3).

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

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

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

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

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

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

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

*and renewable energy*

*Insert 4-15*

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- 1      2. ~~(b)~~ A peripheral, as defined in s. 287.17 (1) (j). ✓
- 2      3. ~~(c)~~ A facsimile machine.
- 3      4. ~~(d)~~ A digital video disc player.
- 4      5. ~~(dn)~~ A digital video player that does not use a disc and that is not a camera,  
5 as defined in s. 287.17 (1) (a). ✓
- 6      6. ~~(e)~~ A video cassette recorder.
- 7      7. ~~(em)~~ A video recorder that does not use a cassette and that is not a camera, as  
8 defined in s. 287.17 (1) (a). ✓
- 9      8. ~~(f)~~ A video display device, as defined in s. 287.17 (1) (q). ✓
- 10     9. ~~(g)~~ A telephone with a video display.
- 11     10. ~~(h)~~ Another kind of electronic device identified by the department under s.  
12 287.17 (10) (i). ✓

✓ Insert  
5-12 →

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.

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) "Camera" means a device that records images and that is designed to be  
19 hand-held.

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

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

**SENATE BILL 397****SECTION 6**

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.

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 4m. A digital video player that does not use a disc and that is not a camera.
- 18 5. A video cassette recorder.
- 19 5m. A video recorder that does not use a cassette and that is not a camera.
- 20 6. A video display device.
- 21 7. Another kind of electronic device identified by the department under sub.

22 (10) (i).

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

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1 (gm) "Electronic device" means a device that requires electric current or  
2 electromagnetic fields to function and that contains a circuit board.

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

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

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

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

9 3. Licenses the person's brand for manufacture and sale of video display devices  
10 by others.

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

14 (jm) "Program quarter" means a 3-month period ending on March 31, June 30,  
15 September 30, or December 31.

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

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

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

Insert ✓ →  
7-25



## SENATE BILL 397

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

3 (nm) "Rural county" means a county that is not an urban county.

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

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

9 (pm) "Urban county" means Brown County, Calumet County, Dane County,  
10 Eau Claire County, Fond du Lac County, Jefferson County, Kenosha County,  
11 Manitowoc County, Milwaukee County, Outagamie County, Ozaukee County, Racine  
12 County, Rock County, Sheboygan County, Walworth County, Washington County,  
13 Waukesha County, or Winnebago County.

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

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

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

24 (2) REQUIREMENTS FOR SALE OF VIDEO DISPLAY DEVICES. (a) *Manufacturers.*  
25 Beginning on September 1, 2008, a manufacturer may not sell, offer to sell, or deliver  
*to a household* *to a household* ✓

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to a household ✓

1 to retailers for subsequent sale <sup>to a household</sup> a new video display device unless all of the following  
2 apply:

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

5 2. The manufacturer is registered with the department in accordance with sub.  
6 (3).

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

8 4. The manufacturer collects and recycles or arranges for the collection and  
9 <sup>by a registered recycler ✓</sup> recycling of covered electronic devices used by households in this state.

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

12 6. The manufacturer reports as required under sub. (5) and conducts  
13 assessments as required under sub. (6).

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

15 (a) 4. ✓ jointly with other manufacturers and may participate with other  
16 manufacturers in creating an entity to collect and recycle covered electronic devices.

17 (c) *Retailers.* 1. Beginning on February 1, 2009, a retailer may not sell or offer

18 ✓ for sale <sup>to a household</sup> a new video display device unless, before making the first offer for sale, the  
19 retailer has reviewed the Internet site maintained by the department under sub. (10)

20 (a) and determined that the brand of the video display device is listed on the  
21 department's Internet site under sub. (10) (a).

22 2. If a manufacturer's registration is revoked or expired and the retailer took  
23 possession of a video display device of the manufacturer before the registration was

24 <sup>to a household</sup> revoked or expired, the retailer may sell the video display device, ✓ but only if the sale  
25 takes place fewer than 180 days after the revocation or expiration.

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

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

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

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

10 (b) Beginning with the registration due by September 1, 2009, a manufacturer  
11 shall include in its registration under par. (a) a statement disclosing whether any of  
12 its video display devices ~~contain~~ *would violate the maximum concentration value for*  
13 *lead, mercury, cadmium, hexavalent chromium,*  
14 *polybrominated biphenyls, or polybrominated diphenyl ethers and, if so, whether the*  
15 *amount of any of those substances exceeds a maximum concentration level provided*  
16 *under the Annex to European Union Directive 2002/95/EC* and whether there is an  
17 exemption in the Annex to European Union Directive 2002/95/EC permitting those  
18 substances to be used in the manner in which they are used in the manufacturer's  
19 video display devices.

20 (c) Notwithstanding the deadline in par. (a), a manufacturer who begins selling  
21 video display devices after September 1, 2008, and who has not previously submitted  
22 a registration under this subsection shall submit a registration to the department  
23 not more than 10 days after the day on which the manufacturer begins selling or  
offering to sell video display 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 <sup>complete</sup> registration is effective on receipt by the department and is valid until the  
5 following September 1 unless revoked before that date.

6 (f) The department shall review a registration submitted under this section and  
7 notify the manufacturer if the registration <sup>is not complete</sup> does not contain all of the information  
8 required under this subsection. A manufacturer who receives notice under this  
9 paragraph shall submit the information <sup>needed to complete the registration</sup> within 30 days after the day on which it  
10 receives the notice. <sup>(c) recycling targets</sup> and <sup>(d)</sup>

11 (4) MANUFACTURER FEES; RECYCLING CREDITS. (a) Payment. To comply with sub.

12 (2) (a) 3. <sup>with the registration that it submits under sub. (3)</sup> a manufacturer shall pay fees as provided in this subsection.

13 (b) <sup>1. registration</sup> <sup>Registration fees</sup> <sup>First year</sup> <sup>plain</sup> The fee due in 2008, or the first year that a manufacturer  
14 registers if later than 2008, is \$5,000, except that, if the manufacturer sells fewer  
15 than 100 video display devices in this state annually, the fee is \$1,250. A  
16 manufacturer shall pay the fee under this paragraph with the registration that it  
17 submits under sub. (3).

18 (c) <sup>2.</sup> ~~Subsequent years.~~ In each year after the year in which a manufacturer pays  
19 the fee <sup>subd. 1. of</sup> under par. (b), the manufacturer shall pay, with the registration that it  
20 submits under sub. (3), a ~~base~~ <sup>of registration</sup> fee of \$2,500, except that, if the manufacturer sells  
21 fewer than 100 video display devices in this state annually, the ~~base~~ <sup>registration</sup> fee is \$1,250.

22 In addition to the ~~base~~ <sup>registration beginning in 2009, shortfall</sup> fee, a manufacturer shall pay ~~variable~~ <sup>registration</sup> fees under par. (d) or  
23 (dm) if the amount calculated under ~~par. (d) or (dm)~~ <sup>these provisions (d) and (dm) are</sup> is a positive number. With each  
24 registration that a manufacturer submits under sub. (3), the manufacturer shall

4 (b) <sup>NO #</sup> Shortfall Fees. #

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SECTION 6

after 2009

1 state whether it will calculate and pay variable fees on an annual basis under par. (d) or on a quarterly basis under par. (dm).

Insert 12-3

(d) Annual <sup>short fall</sup> variable fee. If a manufacturer calculates variable fees on an annual

4 basis, the manufacturer shall pay the fees with the registration that it submits under

5 sub. (3). The <sup>annual short fall</sup> variable fee for a manufacturer that chooses to pay on an annual basis

6 is calculated as follows:

In a year after 2009

7 1. Determine the manufacturer's target recycling weight by multiplying the

8 number of pounds of the manufacturer's video display devices sold to households in

9 this state during the previous program year, <sup>in that year</sup> as reported under sub. (5) (a), by 0.6 for

10 ~~the program year ending on June 30, 2009, and by 0.8 for every other program year~~

plain period

11 2. Determine the actual recycling weight by adding the weight of covered

12 electronic devices recycled by or on behalf of the manufacturer, as determined under

13 par. (f) 1., plus the number of recycling credits that a manufacturer elects to use, as

14 reported to the department under sub. (5) (c) 3.

15 3. Subtract the actual recycling weight, determined under subd. 2., from the

16 target recycling weight, determined under subd. 1.

17 4. Multiply the amount determined under subd. 3. by the estimated cost of

18 recycling determined as follows:

19 a. Fifty-five cents per pound for a manufacturer if the weight of covered

20 electronic devices <sup>recycled</sup> collected by or on behalf of the manufacturer, as determined under

21 <sup>subd. 2.</sup> par. (f) 1., is less than 50 percent of the target recycling weight, determined under

22 subd. 1.

23 b. Forty-four cents per pound for a manufacturer if the weight of covered

24 electronic devices <sup>recycled</sup> collected by or on behalf of the manufacturer, as determined under

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1 par. (f) 1. <sup>subd. 2.</sup> is at least 50 percent but not more than 90 percent of the target recycling  
2 weight, determined under subd. 1.

3 c. Thirty-three cents per pound for a manufacturer if the weight of covered  
4 electronic devices <sup>recycled</sup> collected by or on behalf of the manufacturer, as determined under  
5 par. (f) 1., <sup>subd. 2.</sup> is more than 90 percent of the target recycling weight, determined under  
6 subd. 1.

*shortfall* *Insert 13-7* ✓

7 (dm) *Quarterly fee.* 1. ~~If a manufacturer calculates variable fees on a quarterly  
8 basis, the manufacturer shall pay the fees with the reports that it submits under sub.  
9 (5) (a), beginning with the report that is due no later than December 1, 2008.~~

10 2. The quarterly <sup>shortfall</sup> variable fee <sup>based on a</sup> for a manufacturer for the first 3 quarters of a  
11 program year is calculated as follows:

12 a. Determine the manufacturer's target recycling weight by multiplying the  
13 number of pounds of the manufacturer's video display devices sold to households in  
14 this state ~~during the previous program quarter,~~ <sup>in the year in which the fee is paid</sup> as reported under sub. (5) (a); by 0.6  
15 for <sup>a</sup> program <sup>a</sup> quarters in the program year ending on June 30, 2009, and by 0.8 for  
16 <sup>a</sup> program <sup>a</sup> quarters in every other program year. <sup>and multiplying the product by 0.15 for the quarter</sup>

17 b. Determine the actual recycling weight under par. (f) 2. ✓

18 c. Subtract the actual recycling weight, determined under subd. 2. b., from the  
19 target recycling weight, determined under subd. 2. a.

20 d. Multiply the amount determined under subd. 2. c. by the estimated cost of  
21 recycling determined under subd. 5.

~~22 3. The quarterly variable fee for a manufacturer for the last quarter of a  
23 program year is calculated as follows:  
24 a. Determine the manufacturer's target recycling weight by multiplying the  
25 number of pounds of the manufacturer's video display devices sold to households in~~

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SECTION 6

1 This state during the previous program year, as reported under sub. (5) (a), by 0.6 for  
2 the program year ending on June 30, 2009, and by 0.8 for every other program year.

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

7 c. Subtract the actual recycling weight, determined under subd. 3. b., from the  
8 target recycling weight, determined under subd. 3. a.

9 d. Multiply the amount determined under subd. 3. c. by the estimated cost of  
10 recycling determined under subd. 5.

11 e. Determine the total amount of the quarterly fees paid for the first 3 quarters  
12 of the program year.

13 f. If the amount determined under subd. 3. d. is greater than the amount  
14 determined under subd. 3. e., the fee for the last quarter equals the difference. If the  
15 amount determined under subd. 3. d. is equal to or less than the amount determined  
16 under subd. 3. e., the manufacturer is not required to pay a fee for the last quarter.

17 4. If the amount determined under subd. 3. d. is less than the amount  
18 determined under subd. 3. e., the department shall refund the difference to the  
19 manufacturer.

20 5. The estimated cost of recycling is determined as follows:

21 a. Fifty cents per pound for a manufacturer if the number of pounds of covered  
22 electronic devices collected <sup>or recycled</sup> by or on behalf of the manufacturer, as determined under  
23 par. (f) 1. or 2., is less than 50 percent of the target recycling weight, determined  
24 under subd. 2. a. or 3. a.

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

5 c. Thirty cents per pound for a manufacturer if the number of pounds of covered  
 6 electronic devices <sup>recycled</sup> collected by or on behalf of the manufacturer, as determined under  
 7 par. (f) 1. or 2., is more than 90 percent of the target recycling weight, determined  
 8 under subd. 2. a. or 3. a.

9 (e) *Recycling credits.* If, for a program year, the weight of covered electronic  
 10 devices recycled by or on behalf of a manufacturer, as determined under par. (f) 1.,  
 11 exceeds the target recycling weight determined under par. (d) 1. or (dm) 3. a., 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. or (dm)  
 14 3. b. for any of the 3 succeeding program years or may sell credits to another  
 15 manufacturer for use for any of the 3 succeeding program years.

16 (f) *Weight recycled.* 1. The weight of covered electronic devices recycled by or  
 17 on behalf of a manufacturer for a program year is the weight reported under sub. (5)  
 18 (b) <sup>used by</sup> for that program year, except that if the manufacturer reports separately the  
 19 weight of covered electronic devices <sup>used by</sup> collected from households in rural counties and  
 20 <sup>used by</sup> from households in urban counties for a program year <sup>used by</sup> the weight is determined by  
 21 adding the weight <sup>used by</sup> collected from households in urban counties in that program year  
 22 and 1.5 times the weight <sup>used by</sup> collected from households in rural counties in that program  
 23 year.

24 2. The weight of covered electronic devices recycled by or on behalf of a  
 25 manufacturer for a program quarter is the weight reported under sub. (5) (b) <sup>used by</sup> for that



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1 program quarter, except that if the manufacturer reports separately the weight of  
 2 covered electronic devices <sup>used by</sup> collected from households in rural counties and <sup>used by</sup> from  
 3 households in urban counties for a program quarter the weight is determined by  
 4 adding the weight collected from <sup>used by</sup> households in urban counties in that program  
 5 quarter and 1.5 times the weight collected from <sup>used by</sup> households in rural counties in that  
 6 program quarter. <sup>submits</sup>

7 (5) MANUFACTURERS REPORTING REQUIREMENTS. (a) *Weight of video display*  
 8 *devices sold.* 1. No later than December 1, March 1, June 1, and September 1 of each  
 9 program year, beginning with December 1, 2008, a manufacturer shall report one of  
 10 the following to the department:

11 a. The total weight of each model of its video display devices sold to households  
 12 in this state during the <sup>3rd</sup> previous program quarter <sup>Insert A</sup>

13 b. The total weight of all of its video display devices sold to households in this  
 14 state during the <sup>3rd</sup> previous program quarter <sup>Insert A</sup>

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

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

19 (b) *Weight of covered electronic devices* collected and recycled. <sup>Insert 16-19</sup> No later than  
 20 December 1, March 1, June 1, and September 1 of each program year, beginning with

21 December 1, 2008, a manufacturer shall report to the department the total weight  
 22 of covered electronic devices <sup>used by</sup> that the manufacturer collected from households in this  
 23 state and recycled or arranged to have collected from households in this state and

24 <sup>Insert 16-23</sup> recycled during the preceding <sup>year</sup> program quarter. A manufacturer may report  
 25 separately the weight of covered electronic devices <sup>used by</sup> collected from households in rural

*each quarter in*

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1 counties and <sup>or used by</sup> from households in urban counties for the purpose of obtaining the  
 2 weight adjustment under sub. (4) (f) <sup>received</sup> for covered electronic devices <sup>received</sup> collected from  
 3 households in rural counties.

4 (c) *Recycling credits.* No later than September 1 of each year, beginning in  
 5 2009, a manufacturer shall report all of the following to the department:

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

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

10 3. The number of recycling credits that the manufacturer elects to use in the  
 11 calculation of its variable recycling fee under sub. (4) (d) 2. ✓

12 4. The number of recycling credits available to the manufacturer after  
 13 calculating its variable recycling fee under sub. (4) (d) 2. ✓

14 (6) MANUFACTURER ASSESSMENT REQUIREMENTS. A manufacturer shall conduct  
 15 and document assessments of the performance of any <sup>registered</sup> collectors and <sup>registered</sup> recyclers with <sup>who collect or recycle covered electronic waste on its behalf</sup>

16 whom it contracts, including assessments of whether the <sup>registered</sup> recyclers comply with sub.

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

19 (7) COLLECTORS. (a) *Registration.* 1. Beginning on August 1, 2008, no <sup>collector</sup> person

20 may ~~operate as a collector~~ <sup>Insert 17-20</sup> unless the person submits to the department an annual  
 21 registration, using a form prescribed by the department, that includes all of the  
 22 following:

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

24 b. The address at which the person operates as a collector.

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Insert 18-1 ✓

Insert 18-2 ✓

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c. A certification that the person has complied, and will continue to comply, with the requirements of this subsection and with ~~application~~ financial responsibility requirements.

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

(b) *Reporting.* No later than November 1, February 1, May 1, and August 1 of each program year, beginning November 1, 2008, a <sup>registered</sup> collector shall report to the department the total weight of covered electronic devices collected in this state during the preceding program quarter and a list of all <sup>registered</sup> recyclers to whom the collector delivered covered electronic devices.

(8) RECYCLERS. (a) *Registration.* 1. Beginning on August 1, 2008, no person <sup>receiving</sup> ~~on behalf of a manufacturer who is registered under sub. (3)~~ may operate as a recycler unless the person submits to the department an annual registration, using a form prescribed by the department, that includes all of the following:

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

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

(b) *Reporting.* No later than November 1, February 1, May 1, and August 1 of each program year, beginning with November 1, 2008, a <sup>registered</sup> recycler shall report to the department the total weight of covered electronic devices collected in this state that the recycler recycled during the preceding program quarter.

and the name of the manufacturer ✓

subject to sub. (3) ✓

SENATE BILL 397

1 (c) *Operational requirements.* 1. A <sup>registered</sup> recycler shall maintain liability insurance  
2 coverage in the amount of at least \$1,000,000 for environmental releases, accidents,  
3 and other emergencies. ✓ Insert 19-4

4 2. A <sup>registered</sup> recycler may not use prison labor to recycle covered electronic devices.

5 3. A recycler may not export covered electronic devices to any country that is  
6 not a member of the Organization for Economic Cooperation and Development  
7 except for covered electronic devices that are in working order and destined for direct  
8 reuse.

✓  
Insert  
19-9

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

14 1. Comply with applicable health, environmental, safety, and financial  
15 responsibility requirements; <sup>including the requirements in 40 CFR 261.39</sup>

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

17 3. Possess liability insurance coverage in the amount of at least \$1,000,000 for  
18 environmental releases; <sup>and</sup>

19 4. Use no prison labor to recycle covered electronic devices <sup>and</sup>

Insert 19-19 ✓

20 5. Do not export covered electronic devices to any country that is not a member  
21 of the Organization for Economic Cooperation and Development except for covered  
22 electronic devices that are in working order and destined for direct reuse.

✓  
Insert  
19-23

23 (9) RETAILERS. (a) *Reporting to manufacturers.* No later than November 1,  
24 February 1, May 1, and August 1 of each program year, beginning with November  
25 1, 2008, a retailer shall report to a manufacturer, using a format specified or

SENATE BILL 397

*each program quarter during*

1 approved by the department, the number of video display devices, by model, labeled  
2 with the manufacturer's brand that the retailer sold to households in this state  
3 during the previous program <sup>year</sup> quarter

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

*✓ Insert 20-11*

*manufacturers* **I**

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

22 <sup>✓</sup> 2.

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

*Insert 20-22*

*Except as provided in par. (b) <sup>bm</sup>*

*Insert 20-25*

## SENATE BILL 397

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

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

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

6 c. The ~~base~~ registration fee under sub. (4) (e) a.

7 d. The multiplier for the weight of covered electronic devices collected from  
8 households in rural counties under sub. (4) (f).

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

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

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

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

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

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

SENATE BILL 397

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.

Insert  
22-3

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.

Insert 22-17

(I) Suspension and (I)

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

suspend or

20 revoke the registration of a collector or recycler who violates sub. (7) or (8) (a).

21 (i) *Additional covered electronic devices.* If the department determines that the  
22 disposal of a kind of electronic device that is not listed in sub. (1) (f) in a solid waste  
23 disposal facility may be harmful to human health or the environment, the  
24 department may promulgate a rule specifying that the kind of electronic device is a  
25 covered electronic device and is subject to s. 287.07 (5) (a)

SENATE BILL 397

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

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

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

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

14 287.91 (2) Notwithstanding sub. (1) and s. 287.95 (3) (a), the attorney general  
 15 may enforce s. 287.07 (3) ~~and~~, (4), and (5) by seeking injunctive relief against any  
 16 person violating those provisions.

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

18 **287.97 Penalties.** Any person who violates this chapter, except s. 287.07,  
 19 287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under  
 20 s. 287.07, 287.08 or 287.81, may be required to forfeit not less than \$10 nor more than  
 21 \$1,000 for each violation.

22 SECTION 9. **Nonstatutory provisions.**

23 (1) PERMANENT POSITION AUTHORIZATION. The authorized FTE positions for the  
 24 department of natural resources are increased by <sup>1</sup> 2.0 SEG positions, to be funded

✓  
Insert  
23-16

✓  
Insert  
23-2322

auto ref A

24



SENATE BILL 397

SECTION 9

1 from the appropriation under section 20.370 (2) (hr) of the statutes, as created by this  
2 act, to administer the electronic waste recycling program.

3 ~~PROJECT POSITION AUTHORIZATION.~~ *AUTO REF B* *# (2) ← AUTO REF C*  
4 (2) PROJECT POSITION AUTHORIZATION. The authorized FTE positions for the  
5 department of natural resources are increased by *2.0* SEG 2-year project positions,  
6 to be funded from the appropriation under section 20.370 (2) (hq) of the statutes, for  
7 start up of the electronic waste recycling program.

(END)

*Inset*  
*7*  
*24-6 ✓*

**Insert 4-15**

~~NO~~ ~~Φ~~, burn in a solid waste treatment facility, or place in a container the contents of which will be disposed of in a solid waste disposal facility or burned in a solid waste treatment facility, any of the following ~~NO~~ ~~Φ~~

**Insert 5-12**

(b) The operator of a solid waste disposal facility<sup>✓</sup> or a solid waste treatment facility<sup>✓</sup> shall make a reasonable effort to manually separate, and arrange to have recycled, any video display device, as defined in s. 287.17 (1) (q)<sup>✓</sup>, that is readily observable in solid waste that is delivered to the facility for disposal or burning<sup>✓</sup> if the operator determines that all of the following apply:<sup>✓</sup>

1. Separating the video display device is practical and will not require the operator to implement measures to protect human health or safety in addition to any measures taken in the ordinary course of business.<sup>✓</sup>

2. The video display device has not been damaged in such a way that recycling is not feasible or practical.<sup>✓</sup>

**SECTION 1.** 287.09 (2) (ar)<sup>✓</sup> of the statutes is created to read:

\* 287.09 (2) (ar)<sup>✓</sup> Provide information to persons in its region about the prohibitions under s. 287.0<sup>7</sup>~~5~~ (5) (a), why it is important to recycle electronic devices, and opportunities available to those persons for recycling electronic devices.<sup>✓</sup>

**Insert 7-25**

(mg)<sup>✓</sup> "Registered collector" means a collector who is registered under sub. (7).<sup>✓</sup>

(mr)<sup>✓</sup> "Registered recycler" means a recycler who is registered under sub. (8).<sup>✓</sup>

**Insert 13-7**



\* ~~NO~~ The quarterly shortfall fees paid by a manufacturer in a program year are based on the actual recycling weight determined under ~~under~~ par. (f) 2<sup>✓</sup> for each program quarter of the previous program year, except that in program year<sup>✓</sup> 2009 a manufacturer is not required to pay a quarterly shortfall fee based on actual recycling weight for the first quarter of the previous program year.<sup>✓</sup>

**Insert A (used 3 times)**

~~NO~~ year that began 36<sup>✓</sup> months before the beginning of the program year in which the report is made ~~NO~~

**Insert 16-19**

~~NO~~ With the registration that it submits under sub. (3)<sup>✓</sup> in 2009, a manufacturer shall report to the department<sup>✓</sup> the total weight of covered electronic devices<sup>✓</sup> used by households in this state that were collected by or delivered to the manufacturer for recycling by the manufacturer or that were collected by or delivered to a registered recycler for recycling on behalf of the manufacturer during the last 3<sup>✓</sup> quarters of the preceding program year. Beginning in<sup>✓</sup> 2010, with the registration that it submits under sub. (3), ~~NO~~

**Insert 16-23**

~~NO~~ that were collected by or delivered to the manufacturer<sup>✓</sup> for recycling by the manufacturer or that were collected by or delivered to a<sup>✓</sup> registered recycler for recycling on behalf of the manufacturer

**Insert 17-20**

~~NO~~ deliver or arrange for the delivery of covered electronic devices to a<sup>✓</sup> registered recycler ~~NO~~

**Insert 18-1**

~~NO~~ all required governmental licenses or other approvals and has ~~NO~~

**Insert 18-2**

~~NO~~ applicable health, environmental, safety, and ~~NO~~

**Insert 18-18**

d. Documentation of the liability insurance required under this subsection. ✓

**Insert 19-4**

~~NO~~ the weight of which was or will be reported under sub. (5) (b) ✓ ~~NO~~

**Insert 19-9**

3. Except as provided under par. (e), ✓ a registered recycler shall demonstrate that it has implemented, or commit itself to implementing within one ✓ year of the recycler's initial registration under par. (a), ✓ an environmental management system, as defined in s. 299.83 (1) (b), ✓ for each facility at which it conducts recycling, that is in compliance with the standards for environmental management systems issued by the International Organization for Standardization ✓ or determined by the department to be a functionally equivalent environmental management system, as defined in s. 299.83 (1) (dg). ✓

4. Except as provided under par. (e), ✓ at least once every 3 ✓ years a registered recycler shall have an environmental management system audit, ✓ as defined in s. 299.83 (1) (bm), ✓ of its environmental management system under subd. 3. ✓ performed by an outside environmental auditor, as defined in s. 299.83 (1) (dr), ✓ approved by the department.

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

**Insert 19-19**

~~NO~~ the weight of which was or will be reported under sub. (5) (b) ✓ ↓

**Insert 19-23**

↓

(e) *Modifying requirements by rule.* The department shall review the requirements under par. (c) 3. and 4. to determine whether it is necessary to modify or add to those requirements so that the requirements applicable to registered recyclers are at least equivalent to nationally recognized standards for recycling covered electronic devices. If the department determines that it is necessary to modify or add to the requirements under par. (c) 3. and 4., the department shall promulgate rules that modify or add to the requirements so that they are at least equivalent to nationally recognized standards for recycling covered electronic devices.

**Insert 20-11**

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

**Insert 20-22**

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

**Insert 20-25**

(bm) *Confidentiality.* 1. The department shall keep confidential any part of a record, report, or other information obtained in the administration of this section upon receiving an application for confidential status by any person containing a showing satisfactory to the department that the part of a record, report, or other



information would, if made public, divulge a method or process that is entitled to protection as a trade secret, as defined in s. 134.90 (1) (c), of that person.

2. If the department refuses to release information on the grounds that it is confidential under subd. 1. and a person challenges that refusal, the department shall inform the affected participant of that challenge. Unless the participant authorizes the department to release the information, the participant shall pay the reasonable costs incurred by this state to defend the refusal to release the information.

3. Subdivision 1. does not prevent the disclosure of any information to a representative of the department for the purpose of administering this section or to an officer, employee, or authorized representative of the federal government for the purpose of administering federal law. When the department provides information that is confidential under subd. 1. to the federal government, the department shall also provide a copy of the application for confidential status.

**Insert 22-3**

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

**Insert 22-17**

NO  
A The department may, with other states, operate a regional system for creating, trading, and selling credits for recycling covered electronic devices.

**Insert 23-16**

**SECTION 2.** 287.95 (1) of the statutes is amended to read:



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

History: 1989 a. 335, 359; 1995 a. 227 s. 921; Stats. 1995 s. 287.95.

**Insert 23-22**

nonstat.  
sub

#  
SUBMISSION OF PROPOSED RULES. If the department determines that it is necessary to promulgate rules under section 287.17 (8) (e) of the statutes, as created by this act, the department shall submit the rules in proposed form to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 36th month beginning after the effective date of this subsection.

of natural resources

**Insert 24-6**

nonstat.  
par

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

**SECTION 3. Fiscal changes.**

(1) FUNDING FOR POSITIONS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (2) (hq) of the statutes, as affected by the acts of 2007, the dollar amount is increased by \$26,700 for fiscal year 2007-08 and the dollar amount is increased by \$160,000 for fiscal year 2008-09 to increase the authorized FTE positions for the department by 1.0 SEG position for administration of the electronic waste recycling program and to fund the 1.0 FTE SEG project position authorized under SECTION of this act.

auto  
ref  
B2  
(2) (a)

auto  
ref C

auto  
ref A

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Insert 12-2

and multiplying the product by 0.75

SECTION 6

1 state whether it will calculate and pay variable fees on an annual basis under par.  
2 (d) or on a quarterly basis under par. (dm).

3 (d) Annual variable fee. If a manufacturer calculates variable fees on an annual  
4 basis, the manufacturer shall pay the fees with the registration that it submits under  
5 sub. (3). The variable fee for a manufacturer that chooses to pay on an annual basis  
6 is calculated as follows:

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

11 2. Determine the actual recycling weight by adding the weight of covered  
12 electronic devices recycled by or on behalf of the manufacturer, as determined under  
13 par. (f) 2., plus the number of recycling credits that a manufacturer elects to use, as  
14 reported to the department under sub. (5) (c) 3.

15 3. Subtract the actual recycling weight, determined under subd. 2., from the  
16 target recycling weight, determined under subd. 1.

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

19 a. Fifty-five cents per pound for a manufacturer if the weight of covered  
20 electronic devices collected by or on behalf of the manufacturer, as determined under  
21 par. (f) 1., is less than 50 percent of the target recycling weight, determined under  
22 subd. 1.

23 b. Forty-four cents per pound for a manufacturer if the weight of covered  
24 electronic devices collected by or on behalf of the manufacturer, as determined under





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1 par. (f) 1. <sup>of subd. 2 ✓</sup> is at least 50 percent but not more than 90 percent of the target recycling  
2 weight, determined under subd. 1.

3 c. Thirty <sup>✓</sup>-three <sup>✓</sup> cents per pound for a manufacturer if the weight of covered  
4 electronic devices <sup>✓</sup> collected <sup>recycled</sup> by or on behalf of the manufacturer, as determined under  
5 par. (f) 1. <sup>of subd. 2 ✓</sup> is more than 90 percent of the target recycling weight, determined under  
6 subd. 1.

7 (dm) *Quarterly fee.* 1. If a manufacturer calculates variable fees on a quarterly  
8 basis, the manufacturer shall pay the fees with the reports that it submits under sub.  
9 (5) (a), beginning with the report that is due no later than December 1, 2008.

10 2. The quarterly variable fee for a manufacturer for the first 3 quarters of a  
11 program year is calculated as follows:

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

17 b. Determine the actual recycling weight under par. (f) 2.

18 c. Subtract the actual recycling weight, determined under subd. 2. b., from the  
19 target recycling weight, determined under subd. 2. a.

20 d. Multiply the amount determined under subd. 2. c. by the estimated cost of  
21 recycling determined under subd. 5.

22 3. The quarterly variable fee for a manufacturer for the last quarter of a  
23 program year is calculated as follows:

24 a. Determine the manufacturer's target recycling weight by multiplying the  
25 number of pounds of the manufacturer's video display devices sold to households in

(end ins 12-2)