



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0944/P1

RCT:kj:fj

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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

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 consumer video display devices. A consumer video display device is a television or a computer monitor that has a tube or screen of at least four inches in the longest diagonal dimension and that is marketed for use by individuals.

Under the bill, beginning on September 1, 2009, a manufacturer may not sell a consumer 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.

Beginning on February 1, 2010, the bill also prohibits a retailer from selling a consumer video display device unless the retailer determines that the manufacturer is registered with DNR.

Registration of manufacturers

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

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

Collection and recycling; reporting

The bill requires a manufacturer of consumer 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 shortfall fees that a manufacturer is required to pay, as described below. A manufacturer is not limited to collecting electronic devices made by the manufacturer and is not limited to collecting consumer 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 consumer video display devices, computers, computer peripherals, digital video players, and video recorders used by individuals. Electronic devices used by businesses do not count toward a manufacturer's obligation to collect and recycle.

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

The bill requires a manufacturer to make annual reports to DNR of the weight of its consumer 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.

Fees

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

The bill also provides for shortfall fees. Whether a manufacturer must pay a shortfall fee and the amount of the fee is based on the weight of a manufacturer's consumer video display devices sold and the weight of covered electronic devices recycled by or on behalf of the manufacturer. 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 consumer video display devices sold the first year and 0.8 times the weight of its consumer 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.

Penalties

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

COLLECTORS

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

RECYCLERS

A recycler is an entity that 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 register annually with DNR if it recycles covered electronic devices on behalf of a manufacturer.

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

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

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

RETAILERS

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

OTHER PROVISIONS***Landfill and incineration ban***

Current law prohibits various items, including lead acid batteries and major appliances, from being disposed of in landfills and from being incinerated. This bill prohibits the disposal in landfills and the incineration of televisions, computer monitors, computers, computer peripherals, facsimile machines, digital video players, video recorders, and telephones with video displays. The prohibition takes effect on September 1, 2010. The bill authorizes DNR to expand the prohibition to other kinds of electronic devices if disposing of the electronic devices in landfills may be harmful to human health or the environment and also authorizes DNR to exempt a kind of electronic device from the prohibition.

Audits

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

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

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

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

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

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

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

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

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

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

2 3. A facsimile machine.

3 4. A digital video disc player.

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

6 6. A video cassette recorder.

7 7. 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. A consumer video display device, as defined in s. 287.17 (1) (em).

10 9. A telephone with a video display.

11 10. Another kind of electronic device identified by the department under s.
12 287.17 (10) (i).

13 (b) The operator of a solid waste disposal facility or a solid waste treatment
14 facility shall make a reasonable effort to manually separate, and arrange to have
15 recycled, a device of a kind subject to par. (a) that is readily observable in solid waste
16 that is delivered to the facility for disposal or burning unless the operator determines
17 that one of the following applies:

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

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

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

1 287.09 (2) (ar) Provide information to persons in its region about the
2 prohibitions under s. 287.07 (5) (a), why it is important to recycle electronic devices,
3 and opportunities available to those persons for recycling electronic devices.

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

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

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

8 **287.17 Electronic waste recycling. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

1 (em) "Consumer video display device" means a television or computer monitor
2 with a tube or screen that is at least 4 inches in its longest diagonal measurement
3 and that is marketed by the manufacturer for use by households, except that
4 "consumer video display 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 (f) "Covered electronic device" means a device that is one of the following and
12 that is used by a household primarily for personal use, unless the device is of a kind
13 exempted by a rule promulgated under s. 287.17 (10) (i):

14 1. A computer

15 2. A peripheral.

16 3. A facsimile machine.

17 4. A digital video disc player.

18 4m. A digital video player that does not use a disc and that is not a camera.

19 5. A video cassette recorder.

20 5m. A video recorder that does not use a cassette and that is not a camera.

21 6. A consumer video display device.

22 7. Another kind of electronic device identified by the department under sub.

23 (10) (i).

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

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

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

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

11 2. Sells consumer video display devices manufactured by others under the
12 person's own brand.

13 3. Licenses the person's brand for manufacture and sale of consumer video
14 display devices by others.

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

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

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

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

24 (m) "Recycling" means preparing covered electronic devices for use in
25 manufacturing processes or for recovery of useable materials and delivering the

1 materials for use. "Recycling" does not include destruction by incineration or other
2 processes or land disposal of recyclable materials and does not include reuse, repair,
3 or any other process through which covered electronic devices are returned for use
4 by households in their original form.

5 (mg) "Registered collector" means a collector who is registered under sub. (7).

6 (mr) "Registered recycler" means a recycler who is registered under sub. (8).

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

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

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

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

16 (pm) "Urban county" means Brown County, Calumet County, Dane County,
17 Fond du Lac County, Jefferson County, Kenosha County, Manitowoc County,
18 Milwaukee County, Outagamie County, Ozaukee County, Racine County, Rock
19 County, Sheboygan County, Walworth County, Washington County, Waukesha
20 County, or Winnebago County.

21 (2) REQUIREMENTS FOR SALE OF CONSUMER VIDEO DISPLAY DEVICES. (a)
22 *Manufacturers.* Beginning on September 1, 2009, a manufacturer may not sell to a
23 household, offer to sell to a household, or deliver to retailers for subsequent sale to
24 a household a new consumer video display device unless all of the following apply:

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

3 2. The manufacturer is registered with the department in accordance with sub.
4 (3).

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

6 4. The manufacturer recycles or arranges for the recycling, by a registered
7 recycler, of covered electronic devices used by households in this state.

8 5. Individuals are not charged a fee when they relinquish covered electronic
9 devices for recycling under subd. 4.

10 6. The manufacturer reports as required under sub. (5).

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

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

14 (c) *Retailers.* 1. Beginning on February 1, 2010, a retailer may not sell or offer
15 for sale to a household a new consumer video display device unless, before making
16 the first offer for sale, the retailer has determined that the brand of the video display
17 device is listed on the department's Internet site under sub. (10) (a).

18 2. If a manufacturer's registration is revoked or expired and the retailer took
19 possession of a consumer video display device of the manufacturer before the
20 registration was revoked or expired, the retailer may sell the consumer video display
21 device to a household, but only if the sale takes place fewer than 180 days after the
22 revocation or expiration.

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

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

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

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

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

9 1. The manufacturer's consumer video display devices ^{comply with} do not contain any of the
10 substances covered by the European Union directive on the restriction of the use of
11 hazardous substances in electrical and electronic equipment, 2002/95/EC or a
12 successor directive, in excess of a maximum concentration value provided in the
13 directive.

14 2. The manufacturer's consumer video display devices contain one or more of
15 the substances covered by the European Union directive on the restriction of the use
16 of hazardous substances in electrical and electronic equipment, 2002/95/EC or a
17 successor directive, in excess of a maximum concentration value provided in the
18 directive, but comply with exemptions granted under the directive.

19 3. The manufacturer's consumer video display devices ² contain one or more of
20 the substances covered by the European Union directive ^{do not comply with} on the restriction of the use
21 of hazardous substances in electrical and electronic equipment, 2002/95/EC or a
22 successor directive, in excess of a maximum concentration value provided in the
23 directive and do not comply with exemptions granted under the directive.

24 (c) Notwithstanding the deadline in par. (a), a manufacturer who begins selling
25 consumer video display devices after September 1, 2009, and who has not previously

1 submitted a registration under this subsection shall submit a registration to the
2 department not more than 10 days after the day on which the manufacturer begins
3 selling or offering to sell consumer video display devices.

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

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

9 (f) Within 20^{business} days after the receipt of a registration under this subsection, the
10 department shall review the registration submitted and notify the manufacturer if
11 the registration is not complete.

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

15 (b) *Registration fees.* 1. If the manufacturer ^{or sold} sells at least 100 consumer video
16 display devices in this state ^{Insert 12-16} annually, the manufacturer shall pay a registration fee
17 of \$5,000, except, as provided under sub. (10) (k).

18 2. If the manufacturer ^{or sold} sells at least 25 but fewer than 100 consumer video
19 display devices in this state ^{Insert 12-19} annually, the manufacturer shall pay a registration fee
20 of \$1,250.

21 3. If the manufacturer ^{or sold} sells fewer than 25 consumer video display devices in
22 this state ^{Insert 12-22} annually, the manufacturer is not required to pay a registration fee.

23 (bm) *Shortfall fees.* In addition to the registration fee, beginning in 2010, a
24 manufacturer shall pay shortfall fees under par. (c) or (d) if the amounts calculated
25 under those provisions are positive numbers, except that a manufacturer is not

1 required to pay shortfall fees until its consumer video display devices have been sold
2 or offered for sale to households in this state for 3 full program years.

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

5 1. Determine the manufacturer's target recycling weight by multiplying the
6 number of pounds of the manufacturer's consumer video display devices sold to
7 households in this state, as reported in 2010 under sub. (5) (a), by 0.6 and multiplying
8 the product by 0.75.

9 2. Determine the actual recycling weight ^{equal to} ~~by adding~~ the weight of covered
10 electronic devices recycled by or on behalf of the manufacturer during the last 3
11 program quarters of program year ²⁰⁰⁹⁻¹⁰ ~~2008-09~~ ^e as determined under par. (f) 2., plus the
12 number of recycling credits that a manufacturer elects to use, as reported to the
13 department under sub. (5) (c) 3.

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

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

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

21 b. Forty cents per pound for a manufacturer if the weight of covered electronic
22 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,
23 is at least 50 percent but not more than 90 percent of the target recycling weight,
24 determined under subd. 1.

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

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

6 1. Determine the manufacturer's target recycling weight by multiplying the
7 number of pounds of the manufacturer's consumer video display devices sold to
8 households in this state, as reported in that year under sub. (5) (a), by 0.8.

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

13 3.

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

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

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

21 b. Forty cents per pound for a manufacturer if the weight of covered electronic
22 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,
23 is at least 50 percent but not more than 90 percent of the target recycling weight,
24 determined under subd. 1.

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

4 (e) *Recycling credits.* If, for a program year, the weight of covered electronic
5 devices recycled by or on behalf of a manufacturer, as determined under par. (f) 1.,
6 exceeds the target recycling weight determined under par. (c) 1. or (d) 1., the
7 manufacturer has a number of recycling credits equal to the number of excess
8 pounds. The manufacturer may use the credits for the purpose of par. (d) 2. for any
9 of the 3 succeeding program years or may sell credits to another manufacturer for
10 use for any of the 3 succeeding program years.

11 (f) *Weight recycled.* 1. The weight of covered electronic devices recycled by or
12 on behalf of a manufacturer for a program year is the weight reported under sub. (5)
13 (b) for that program year, except that if the manufacturer reports separately the
14 weight of covered electronic devices used by households in rural counties and used
15 by households in urban counties for a program year, the weight is determined by
16 adding the weight used by households in urban counties in that program year and
17 1.5 times the weight used by households in rural counties in that program year.

18 2. The weight of covered electronic devices recycled by or on behalf of a
19 manufacturer for the last 3 program quarters of program year ~~2008-09~~²⁰⁰⁹⁻¹⁰ is the weight
20 reported under sub. (5) (b) for that period, except that if the manufacturer reports
21 separately the weight of covered electronic devices used by households in rural
22 counties and used by households in urban counties for that period, the weight is
23 determined by adding the weight used by households in urban counties in that period
24 and 1.5 times the weight used by households in rural counties in that period.

① consumer

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(5) MANUFACTURERS REPORTING REQUIREMENTS. (a) *Weight of video display*

2 *devices sold.* 1. Except as provided in subd. 3., with the registration that it submits
3 under sub. (3) beginning in 2010, a manufacturer shall report one of the following to
4 the department:

5 a. The total weight of each model of its consumer video display devices sold to
6 households in this state during the program year that began 36 months before the
7 beginning of the program year in which the report is made.

8 b. The total weight of all of its consumer video display devices sold to
9 households in this state during the program year that began 36 months before the
10 beginning of the program year in which the report is made.

11 c. An estimate, based on national sales data, of the total weight of its consumer
12 video display devices sold to households in this state during the program year that
13 began 36 months before the beginning of the program year in which the report is
14 made.

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

17 3. A manufacturer is not required to report under subd. 1. until its consumer
18 video display devices have been sold or offered for sale to households in this state for
19 one full program year.

20 (b) *Weight of covered electronic devices recycled.* With the registration that it
21 submits under sub. (3) in 2010, a manufacturer shall report to the department the
22 total weight of covered electronic devices used by households in this state that were
23 collected by or delivered to the manufacturer for recycling by the manufacturer or
24 that were collected by or delivered to a registered recycler for recycling on behalf of
25 the manufacturer during the last 3 program quarters of the preceding program year.

1 Beginning in 2011, with the registration that it submits under sub. (3), a
2 manufacturer shall report to the department the total weight of covered electronic
3 devices used by households in this state that were collected by or delivered to the
4 manufacturer for recycling by the manufacturer or that were collected by or
5 delivered to a registered recycler for recycling on behalf of the manufacturer during
6 the preceding program year. A manufacturer may report separately the weight of
7 covered electronic devices used by households in rural counties and used by
8 households in urban counties for the purpose of obtaining the weight adjustment
9 under sub. (4) (f) for covered electronic devices received from households in rural
10 counties.

11 (c) *Recycling credits*. With the registration that it submits under sub. (3),
12 beginning in 2010¹⁰, a manufacturer shall report all of the following to the department:

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

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

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

19 4. The number of recycling credits available to the manufacturer after
20 calculating its shortfall fees under sub. (4) (c) 2. or (d) 2.

21 (7) COLLECTORS. (a) *Registration*. 1. Beginning on August 1, 2009, no person
22 may operate as a collector delivering or arranging for the delivery of covered
23 electronic devices to a registered recycler unless the person submits to the
24 department an annual registration, using a form prescribed by the department, that
25 includes all of the following:

1 a. The name, address, and contact information of a responsible individual.
2 b. The street address of all facilities at which the person operates as a collector.
3 c. A certification that the person has all required governmental licenses or
4 other approvals ^{Insert 18-4} and has complied, and will continue to comply, with the
5 requirements of this subsection and with applicable health, environmental, safety,
6 and financial responsibility requirements.

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

9 (b) *Reports and records.* No later than August 1 of each program year,
10 beginning August 1, 2010, a registered collector shall report to the department the
11 total weight of covered electronic devices collected in this state during the preceding
12 program year and the names of all registered recyclers to whom the collector
13 delivered covered electronic devices. A registered collector shall maintain records of
14 the sources of covered electronic devices it collects and of the registered recyclers to
15 whom the collector delivers covered electronic devices.

16 (8) RECYCLERS. (a) *Registration.* 1. Beginning on August 1, 2009, no person
17 may operate as a recycler receiving covered electronic devices on behalf of a
18 manufacturer who is registered under sub. (3) unless the person submits to the
19 department an annual registration, using a form prescribed by the department, that
20 includes all of the following:

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

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

3 (b) *Reports and records.* No later than August 1 of each program year,
4 beginning with August 1, 2010, a registered recycler shall report to the department
5 the total weight of covered electronic devices collected in this state that the recycler
6 received for recycling on behalf of a manufacturer registered under sub. (3) during
7 the preceding program year and the name of the manufacturer. A registered recycler
8 shall maintain records of the sources of covered electronic devices collected in this
9 state that the recycler receives for recycling on behalf of a manufacturer registered
10 under sub. (3).

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

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

16 3. A registered recycler shall maintain proof of financial responsibility
17 ensuring the availability of funds in an amount sufficient to cover the estimated costs
18 of paying another person to close the facilities at which recycling is conducted,
19 including managing any remaining covered electronic devices or materials derived
20 from covered electronic devices and performing any necessary environmental
21 cleanup. The registered recycler shall maintain, and provide to the department upon
22 request, an itemized statement of the estimated costs in a form specified by the
23 department and documentation of the source of the estimates. The registered
24 recycler may provide the proof of financial responsibility required under this
25 subdivision using one of the following:

1 a. A surety bond.

2 b. A deposit of cash, certificates of deposit, or securities issued by the federal
3 government.

4 c. An escrow account.

5 d. An irrevocable letter of credit.

6 e. An irrevocable trust.

7 4. A registered recycler shall maintain, and make available to manufacturers
8 upon request, records that can be used to determine, for each program year, the total
9 weight of covered electronic devices received by the recycler, the weight of materials
10 derived from covered electronic devices that the registered recycler sends to another
11 person for use in a manufacturing process or for recovery of useable materials, and
12 the weight of materials derived from covered electronic devices that the registered
13 recycler sends to be disposed of in a solid waste disposal facility or burned at a solid
14 waste treatment facility.

15 5. A registered recycler shall maintain, and make available to manufacturers
16 upon request, records that do all of the following:

17 a. Identify each person who received from the registered recycler materials
18 derived from covered electronic devices.

19 b. If a person identified under subd. 5. a. does not use the materials in a
20 manufacturing process, identify each person who receives from the person identified
21 under subd. 5. a. materials derived from covered electronic devices.

22 6. A registered recycler shall maintain records that show the actions that it
23 takes to ensure that the persons identified under subd. 5. use the materials derived
24 from covered electronic devices in a manufacturing process or for recovery of useable
25 materials.

s. NR 664.0052, Wis. Adm. Code

1 7. A registered recycler shall prepare and maintain a written contingency plan
2 for responding to releases of hazardous substances that complies with the
3 requirements in rules promulgated under s. 291.05 (6).

4 8. A registered recycler shall prepare and maintain a written plan for the
5 identification and management of hazardous materials.

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

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

11 1. Complies with par. (c).

12 2. Complies with federal, state, and local requirements concerning the storage,
13 transportation, processing, and exporting of covered electronic devices and materials
14 derived from covered electronic devices, including the requirements in 40 CFR
15 261.39 (a) (5), 261.41, and 273.20 and requirements in rules promulgated under s.
16 291.05.

17 3. Complies with federal requirements under 29 CFR 1910.120 concerning
18 occupational and environmental health and safety training for employees.

19 (e) *Modifying or adding requirements by rule.* The department shall review the
20 requirements under par. (c) 1. to 8, to determine whether it is necessary to modify
21 or add to those requirements so that the requirements applicable to registered
22 recyclers are at least equivalent to nationally recognized standards for recycling
23 covered electronic devices. If the department determines that it is necessary to
24 modify or add to the requirements under par. (c) 1. to 8, the department shall
25 promulgate rules that modify or add to the requirements so that they are at least

1 equivalent to nationally recognized standards for recycling covered electronic
2 devices.

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

11 **(9m)** RECORD KEEPING AND INSPECTION. A person subject to sub. (3), (7), (8), or
12 (9) shall maintain records related to the program under this section and reports
13 required under this section for at least 3 years. The department may inspect records
14 of a person subject to sub. (3), (7), (8), or (9) that are related to the program under this
15 section.

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

1 department shall also include on the Internet site the contact information provided
2 by manufacturers under sub. (3) (a) 2.

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

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

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

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

22 3. Subdivision 1. does not prevent the disclosure of any information to a
23 representative of the department for the purpose of administering this section or to
24 an officer, employee, or authorized representative of the federal government for the
25 purpose of administering federal law. When the department provides information

1 that is confidential under subd. 1. to the federal government, the department shall
2 also provide a copy of the application for confidential status.

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

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

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

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

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

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

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

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

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

23 3. Information concerning the recycling programs used by manufacturers to
24 recycle covered electronic devices.

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

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

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

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

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

13 (f) *Outreach and communication.* 1. 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 2. The department shall assist recyclers to identify federal and state
21 requirements concerning the storage, transportation, export, and processing of
22 covered electronic devices and materials derived from covered electronic devices.
23 The department shall assist collectors to identify health, environmental, safety, and
24 financial responsibility requirements applicable to collectors.

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

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

9 (i) *Addition or exemption of covered electronic devices.* If the department
10 determines that the disposal^{or burning} of a kind of electronic device that is not listed in sub.

11 (1) (f) in a solid waste disposal^e facility may be harmful to human health or the
12 environment, the department may promulgate a rule specifying that the kind of
13 electronic device is a covered electronic device, is subject to s. 287.07 (5) (a), or both.

14 If the department determines that the disposal^{or burning} of a kind of electronic device that is
15 listed in sub. (1) (f) or s. 287.07 (5) (a) in a solid waste facility is not harmful to human
16 health and is not harmful to the environment or if the department determines that
17 it is not feasible to require the recycling of a kind of electronic device that is listed
18 in sub. (1) (f) or s. 287.07 (5) (a), the department may promulgate a rule specifying

19 that the kind of electronic device is not a covered electronic device, is^{not} subject to s.
20 287.07 (5) (a), or both. If the department determines that the disposal of a kind of

21 electronic device that is listed in sub. (1) (f) or s. 287.07 (5) (a) in a solid waste facility
22 is not harmful to human health and is not harmful to the environment or if the
23 department determines that it is not feasible to require the recycling of a kind of
24 electronic device that is listed in sub. (1) (f) or s. 287.07 (5) (a), the department may

1 promulgate a rule specifying that the kind of electronic device is not a covered
2 electronic device, is not subject to s. 287.07 (5) (a), or both.

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

11 (k) *Modification of registration fee.* The department may modify the
12 registration fee under sub. (4) (b) 1. by rule.

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

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

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

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

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

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

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

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

5 **SECTION 10. Nonstatutory provisions.**

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

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

16 (3) PROJECT POSITION AUTHORIZATION.

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

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

25 **SECTION 11. Fiscal changes.**

1 (1) FUNDING FOR POSITIONS. In the schedule under section 20.005 (3) of the
2 statutes for the appropriation to the department of natural resources under section
3 20.370 (2) (hq) of the statutes, as affected by the acts of 2007, the dollar amount is
4 increased by \$26,700 for fiscal year 2008-09 to increase the authorized FTE positions
5 for the department by 1.0 SEG position for administration of the electronic waste
6 recycling program and to fund the 1.0 FTE SEG project position authorized under
7 SECTION 10 (3) (a) of this act.

8 (2) CONTINUED FUNDING FOR POSITIONS. In the schedule under section 20.005 (3)
9 of the statutes for the appropriation to the department of natural resources under
10 section 20.370 (2) (hq) of the statutes, as affected by the acts of 2009, the dollar
11 amount is increased by \$160,000 for the first fiscal year of the fiscal biennium in
12 which this subsection takes effect to provide continued funding for the positions
13 authorized under this act. In the schedule under section 20.005 (3) of the statutes
14 for the appropriation to the department of natural resources under section 20.370 (2)
15 (hq) of the statutes, as affected by the acts of 2009, the dollar amount is increased
16 by \$160,000 for the second fiscal year of the fiscal biennium in which this subsection
17 takes effect to provide continued funding for the positions authorized under this act.

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

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

22 (END)

10/Note

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0944/lins
RCT.....

Inserts 12-16, 12-19, and 12-22 (use 3 times)

during the previous program year

Insert 18-4

that are required to operate as a collector

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

LRB-0944/1dn

RCT: *of*

Date

John Anderson:

This redraft of the electronic waste recycling proposal is based on DNR's comments dated December 26, 2008.

The redraft makes changes in response to all of DNR's comments except item 1, concerning the deletion of "new" on page 10, line 15. As I indicated in an earlier communication, if the word "new" is deleted, entities like thrift stores will not be able to sell used video display devices of brands that are not registered, including brands for which the manufacturer has gone out of business. I do not think that DNR guidance can change the effect of deleting "new" on these entities. If "new" is retained, it seems as though DNR could provide guidance about how refurbished devices are affected by the law.

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

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-0944/1dn
RCT:kjfrs

January 7, 2009

John Anderson:

This redraft of the electronic waste recycling proposal is based on DNR's comments dated December 26, 2008.

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

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

Tradewell, Becky

From: Anderson, John
Sent: Friday, January 09, 2009 10:03 AM
To: Tradewell, Becky; Moore, Cynthia G - DNR
Subject: RE: Printer Language

Yes. If you make VDDs or Printers or Both, you are subject to the bill's requirements. Thanks, Becky.

From: Tradewell, Becky
Sent: Friday, January 09, 2009 9:57 AM
To: Anderson, John; Moore, Cynthia G - DNR
Subject: RE: Printer Language

John,

As I am thinking about this, I need to be sure of something: would a manufacturer that manufactures printers but not VDDs be subject to the bill's requirements?

Becky

From: Anderson, John
Sent: Friday, January 09, 2009 9:16 AM
To: Moore, Cynthia G - DNR; Tradewell, Becky
Subject: RE: Printer Language

RE: Adding Printers manufacturers.

I was hoping it could be as simple as adding "and Printers" whenever VDD is used, once we define printers. Becky, is this possible or is it more complicated than that?

From: Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]
Sent: Friday, January 09, 2009 9:10 AM
To: Anderson, John
Cc: Toral Jha; Murray, Sarah C - DNR
Subject: RE: Printer Language

john

if you add printers to the list of VDD, the term loses its meaning (printers don't have a video display device)

Illinois uses the term Covered Electronic Devices for computers, televisions and printers- which are the basis for determining the recycling target of the manufacturer and Eligible electronic devices (EED) for the array of devices which can be counted towards the recycling target..

Becky brought up the fact that including printers in the manufacturer list would raise this issue.



Great Lakes Program Coordinator

Office of the Great Lakes

Division of Water

Wisconsin Department of Natural Resources

(☎) phone: (608) 261-4385

(☎) fax: (608) 267-2800

e-mail: cynthia.moore@wisconsin.gov

From: Anderson, John [<mailto:John.Anderson@legis.wisconsin.gov>]
Sent: Friday, January 09, 2009 8:43 AM
To: Moore, Cynthia G - DNR
Subject: RE: Printer Language

Yes, please. Thank you, Cynthia. Enjoy this snow this weekend.

From: Moore, Cynthia G - DNR [<mailto:Cynthia.Moore@Wisconsin.gov>]
Sent: Friday, January 09, 2009 8:42 AM
To: Anderson, John
Subject: RE: Printer Language

The only other state program with a definition of a printer that I have is from Rhode Island,-

printer means desktop printers, multifunctional printer copiers and printer/fax combinations taken out of service that are designed to reside on a work surface. The Illinois one is based on the same principles but better defines the scope and limitations.

I think it would be helpful to run it by a recycler- I can ask CRT or Cascade if that's okay with you.



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e-mail: cynthia.moore@wisconsin.gov

From: Anderson, John [mailto:John.Anderson@legis.wisconsin.gov]
Sent: Friday, January 09, 2009 8:18 AM
To: Moore, Cynthia G - DNR; Murray, Sarah C - DNR; Toral Jha
Subject: FW: Printer Language

Cynthia, Sarah and Toral. Here is some language suggested by Forbes/Apple. Your thoughts? Would this work?

From: Forbes McIntosh [mailto:forbes@wis-gps.com]
Sent: Thursday, January 08, 2009 4:45 PM
To: Anderson, John; Bier, Beth
Subject: Printer Language

Beth and John,

Sorry for the delay.

Here is the Language from those States that have included Printers in their e-Waste Legislation\Laws.

Based on our review of Sen. Miller's legislation, I think the **Illinois** definition and language would be the best fit. Both bills are very similar, use many of the same methodologies and are based off of Minnesota's legislation.

Illinois -

"Covered electronic device" or "CED" means any computer, computer monitor, television, or printer that is taken out of service from a residence in this State regardless of purchase location. "Covered electronic device" does not include any of the following:

"Printer" means desktop printers, multifunction printer copiers, and printer/fax combinations taken out of service from a residence that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or "all-in-one" devices that perform different tasks, including without limitation copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or non-stand-alone printers that are embedded into products that are not CEDs.

NYC -

d. ?Covered electronic equipment? means any computer central processing unit; cathode ray

tube; cathode ray tube device; keyboard; electronic mouse or similar pointing device; television; printer; computer monitor, including but not limited to a liquid crystal display and plasma screens, or similar video display device that includes a screen that is greater than four inches measured diagonally and one or more circuit boards; a laptop or other portable computer; or a portable digital music player that has memory capability and is battery-powered. "Covered electronic equipment" does not include any automobile; mobile phone; household appliances such as clothes washers, clothes dryers, refrigerators, freezers, microwave ovens, ovens, ranges or dishwashers; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development or commercial setting; security, anti-terrorism or medical equipment that utilizes a cathode ray tube, a cathode ray tube device or a flat panel display or similar video display device that is not separate from the larger piece of equipment; or any other device, as that term is defined in section three hundred twenty-one of title twenty-one of the United States code.

HI -

"Covered electronic device":

(1) Means a computer, computer printer, computer monitor, or portable computer, with a screen size greater than four inches measured diagonally; and

Schools/Government/Business -

NYC -

j. "Person" means any individual, business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority, or firm.

HI -

"Covered entity" means any household, government entity, business, or nonprofit organization exempt from taxation under section 501(c)(3) of the United States Internal Revenue Code, regardless of size or place of operation within the State.

NJ -

"Person" means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government department, partnership, limited liability company, or association.

"Consumer" means a person who purchases a covered electronic device in a transaction that is a retail sale. "Consumer" shall not include any business concern purchasing covered electronic devices

"Business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization. "Business concern" shall not include a small business enterprise.

--
FORBES MCINTOSH
(608) 332-5205
forbes@wis-gps.com



GOVERNMENT
POLICY
SOLUTIONS
P.O. Box 5057
Madison, WI 53705

GPS

Tradewell, Becky

From: Moore, Cynthia G - DNR [Cynthia.Moore@Wisconsin.gov]
Sent: Friday, January 09, 2009 2:42 PM
To: Anderson, John; Tradewell, Becky
Cc: Stolzenberg, John
Subject: RE: Printer Language

I touched base with toral and Sarah also, and we all agree with John on using the Illinois language.

Sarah wondered if we wouldn't want to keep the definition of VDD, similar to what we have for CED. We might find it useful to refer to this class of materials, and it also helps keeps lists of materials more manageable to be able to refer to groups of materials.

 *Cynthia G Moore*

Great Lakes Program Coordinator

Office of the Great Lakes

Division of Water

Wisconsin Department of Natural Resources

(☎) phone: (608) 261-4385

(☎) fax: (608) 267-2800

e-mail: cynthia.moore@wisconsin.gov

From: Anderson, John [mailto:John.Anderson@legis.wisconsin.gov]
Sent: Friday, January 09, 2009 2:19 PM
To: Tradewell, Becky - LEGIS; Moore, Cynthia G - DNR
Cc: Stolzenberg, John - LEGIS
Subject: RE: Printer Language

I think we should go with Covered EDs and Eligible EDs (Illinois). John S: any thoughts??

From: Tradewell, Becky
Sent: Friday, January 09, 2009 11:34 AM
To: Anderson, John; Moore, Cynthia G - DNR
Cc: Stolzenberg, John
Subject: RE: Printer Language

John,

There are over 30 uses of "consumer video display device" (or "devices") in the draft. In some places it would need to be "and printers" and in other places it would need to be "or printers." Adding this will make some of the sentences more wordy or awkward. In this respect, it might be better to use an approach like Cynthia describes from Illinois ("covered electronic devices" and "eligible electronic devices"). On the

other hand "consumer video display device or printer" is more descriptive, while readers might get confused by the use of two similar terms as in the Illinois approach.

Becky

From: Anderson, John
Sent: Friday, January 09, 2009 9:16 AM
To: Moore, Cynthia G - DNR; Tradewell, Becky
Subject: RE: Printer Language

RE: Adding Printers manufacturers.

I was hoping it could be as simple as adding "and Printers" whenever VDD is used, once we define printers. Becky, is this possible or is it more complicated than that?

From: Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]
Sent: Friday, January 09, 2009 9:10 AM
To: Anderson, John
Cc: Toral Jha; Murray, Sarah C - DNR
Subject: RE: Printer Language

john

if you add printers to the list of VDD, the term loses its meaning (printers don't have a video display device)

Illinois uses the term *Covered Electronic Devices* for computers, televisions and printers- which are the basis for determining the recycling target of the manufacturer

and *Eligible electronic devices (EED)* for the array of devices which can be counted towards the recycling target,.

Becky brought up the fact that including printers in the manufacturer list would raise this issue.

 *Cynthia G Moore*

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From: Anderson, John [mailto:John.Anderson@legis.wisconsin.gov]
Sent: Friday, January 09, 2009 8:43 AM

To: Moore, Cynthia G - DNR
Subject: RE: Printer Language

Yes, please. Thank you, Cynthia. Enjoy this snow this weekend.

From: Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]
Sent: Friday, January 09, 2009 8:42 AM
To: Anderson, John
Subject: RE: Printer Language

The only other state program with a definition of a printer that I have is from Rhode Island,-

printer means desktop printers, multifunctional printer copiers and printer/fax combinations taken out of service that are designed to reside on a work surface.

The Illinois one is based on the same principles but better defines the scope and limitations.

I think it would be helpful to run it by a recycler- I can ask CRT or Cascade if that's okay with you.

 *Cynthia G Moore*

Great Lakes Program Coordinator

Office of the Great Lakes

Division of Water

Wisconsin Department of Natural Resources

(☎) phone: (608) 261-4385

(☎) fax: (608) 267-2800

e-mail: cynthia.moore@wisconsin.gov

From: Anderson, John [mailto:John.Anderson@legis.wisconsin.gov]
Sent: Friday, January 09, 2009 8:18 AM
To: Moore, Cynthia G - DNR; Murray, Sarah C - DNR; Toral Jha
Subject: FW: Printer Language

Cynthia, Sarah and Toral. Here is some language suggested by Forbes/Apple. Your thoughts? Would this work?

From: Forbes McIntosh [mailto:forbes@wis-gps.com]
Sent: Thursday, January 08, 2009 4:45 PM
To: Anderson, John; Bier, Beth
Subject: Printer Language

Beth and John,

Sorry for the delay.

Here is the Language from those States that have included Printers in their e-Waste Legislation\Laws.

Based on our review of Sen. Miller's legislation, I think the **Illinois** definition and language would be the best fit. Both bills are very similar, use many of the same methodologies and are based off of Minnesota's legislation.

Illinois -

"Covered electronic device" or "CED" means any computer, computer monitor, television, or printer that is taken out of service from a residence in this State regardless of purchase location. "Covered electronic device" does not include any of the following:

"Printer" means desktop printers, multifunction printer copiers, and printer/fax combinations taken out of service from a residence that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or "all-in-one" devices that perform different tasks, including without limitation copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or non-stand-alone printers that are embedded into products that are not CEDs.

NYC -

d. ?Covered electronic equipment? means any computer central processing unit; cathode ray tube; cathode ray tube device; keyboard; electronic mouse or similar pointing device; television; printer; computer monitor, including but not limited to a liquid crystal display and plasma screens, or similar video display device that includes a screen that is greater than four inches measured diagonally and one or more circuit boards; a laptop or other portable computer; or a portable digital music player that has memory capability and is battery-powered. "Covered electronic equipment? does not include any automobile; mobile phone; household appliances such as clothes washers, clothes dryers, refrigerators, freezers, microwave ovens, ovens, ranges or dishwashers; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development or commercial setting; security, anti-terrorism or medical equipment that utilizes a cathode ray tube, a cathode ray tube device or a flat panel display or similar video display device that is not separate from the larger piece of equipment; or any other device, as that term is defined in section three hundred twenty-one of title twenty-one of the United States code.

HI -

"Covered electronic device":

(1) Means a computer, computer printer, computer monitor, or portable computer, with a screen size greater than four inches measured diagonally; and

Schools/Government/Business -

NYC -

j. ?Person? means any individual, business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority, or firm.

HI -

"Covered entity" means any household, government entity, business, or nonprofit organization exempt from taxation under section 501(c)(3) of the United States Internal Revenue Code, regardless of size or place of operation within the State.

NJ -

?Person? means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government department, partnership, limited liability company, or association.

?Consumer? means a person who purchases a covered electronic device in a transaction that is a retail sale. ?Consumer? shall not include any business concern purchasing covered electronic devices

"Business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization. "Business concern" shall not include a small business enterprise.

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FORBES MCINTOSH
(608) 332-5205
forbes@wis-gps.com



GOVERNMENT
POLICY
SOLUTIONS
P.O. Box 5057
Madison, WI 53705

Tradewell, Becky

From: Anderson, John
Sent: Thursday, January 22, 2009 8:56 AM
To: Tradewell, Becky
Cc: Stolzenberg, John
Subject: RE: couple issues for Elec Recycling

Thanks, Becky. Yes, on the printers. Plz go with the approached described in Cynthia's 1/9 email.

john

From: Tradewell, Becky
Sent: Wednesday, January 21, 2009 4:53 PM
To: Anderson, John
Cc: Stolzenberg, John
Subject: RE: couple issues for Elec Recycling

John,

Regarding the first item: I need to know whether all of the money is wanted this fiscal year, all is wanted next fiscal year, or how to divide it between the fiscal years.

I will need to spend a bit of time thinking about the second item.

I have been expecting to hear from you as to whether the printer issue is settled. Do you want to go essentially with the approach described in Cynthia's message dated 1/9/2009? If so, I think that I can proceed on that. (It will require large number of terminology changes in the draft.)

You should know that the LRB is swamped with budget drafting right now, so turn around may be a bit slower than usual.

Becky

From: Anderson, John
Sent: Wednesday, January 21, 2009 4:29 PM
To: Tradewell, Becky
Cc: Stolzenberg, John
Subject: FW: couple issues for Elec Recycling

Becky,

- ✓ 1) Could you include what Cynthia is referring to below re: \$23,000 from recycling fund.
- 2) Also, we need to allow municipalities or counties the ability to charge a fee for drop-offs with a sunset on this of three years after the effective date. that is after the sunset, municipalities and counties may no longer charge a fee to consumers to accept their electronics scrap.
- ✓ 3) Finally, are we set on printers language or at least the approach we want to take? Thank you very much.

John

01/22/2009

From: Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]
Sent: Friday, January 16, 2009 3:27 PM
To: Anderson, John
Cc: Bangert, Suzanne A - DNR; Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Potter, Lance - DNR
Subject: RE: couple issues for Elec Recycling

John

The reply to this got pretty complicated quickly- in particular the part about program funding. I hope I've gotten it straight- gets confusing between the 2 funds (hr) and (hq)- let me know if you get lost in alphabet soup and I'll see if I can walk you through.

The bottom line is that because manufacturers don't start paying fees until September, we're asking for a bit more from the Recycling seg fund (\$23,000 in total) to tide us over for the period from May-September, for expenses that aren't covered under salaries.

Hope you get a chance to get out this weekend- 20 degrees sounds like spring after what we've been through!

 *Cynthia G Moore*

Great Lakes Program Coordinator
Office of the Great Lakes
Division of Water
Wisconsin Department of Natural Resources
(☎) phone: (608) 261-4385
(☎) fax: (608) 267-2800
e-mail: cynthia.moore@wisconsin.gov

John [mailto:John.Anderson@legis.wisconsin.gov]
January 14, 2009 10:56 AM
Cynthia G - DNR; Murray, Sarah C - DNR
couple issues for Elec Recycling

Cynthia and Sarah. Here are some thoughts by Sen. Miller. Essentially, he'd give munis / counties up to three years to continue charging a fee. He'd like to give DNR the discretion to allow this. Would this be too cumbersome for you? one thought would be to allow it up to three years, then revisit the issue when that clock runs out.

From: Miller, Mark
Sent: Monday, January 12, 2009 11:22 AM
To: Anderson, John
Cc: Bier, Beth
Subject: RE: couple issues for Elec Recycling

John,

My intent was that, in order for manufacturers to obtain credit for recycling e-waste, no separate fee could be charged to the customer for pick-up or collection. The idea is for the cost of pick-up and collection to be born by the manufacturers. I would consider a limited waiver from this prohibition for communities to charge for collection provided there is a no-fee drop off point within the jurisdiction and the jurisdiction agreed to collect and report data on the impact of the fee system. If we include this I feel the waiver should be granted at the discretion of the department and limited to a maximum of three years duration, but can be renewed at the discretion of the department. The department can negotiate the terms of the waiver and can establish a waiver application and/or issuing fee.

01/22/2009

Refurbishers are not manufacturers. Refurbishers can cherry-pick electronic devices they collect and submit the rest to a collector or recycler for recycling.

Re 1/12/09 email from Sue Bangert, funding for program operation, including software, should be generated from manufacturers fees. If this results in exorbitant fees, then I need to know. I have no idea why the bill takes effect on the day after passage of the budget. I assume it is some sort of convention when a bill has a fiscal effect.

Sen. Mark Miller

(608) 266-9170

From: Anderson, John
Sent: Wednesday, January 07, 2009 2:28 PM
To: Miller, Mark
Subject: couple issues for Elec Recycling

Here are a few issues remaining:

While updating these sheets, Toral and I came across a few things we weren't absolutely sure about. I wanted to bring these up with you, to see if our understanding is correct. I've copied Becky and John S- they might also want to check to see if we are interpreting the bill language correctly. I'll respond to Becky's questions in her email of 12/29 under separate cover.

1. It is our understanding that while the bill prohibits a manufacturer from charging an individual a fee for recycling (p. 10, lines 8-9 in the latest draft bill); this prohibition does NOT extend to recyclers, collectors or local government. Is this correct and is that your intention? This would allow a local government (or a recycler or collector) to assess a fee to cover collection costs - something which local gov'ts would probably want to be able to do. However the observation from other states is that fees are much lower than before, if charged at all.
2. The definition of a manufacturer excludes refurbishers (businesses or individuals that refurbish a computer from used parts) because the latter don't "manufacture". Therefore, a Goodwill that rebuilds and sells a refurbished computer or a computer built from used components is not required to register as a manufacturer. The distinction is in the definition of recycling (page 9, lines 1-4) which excludes reuse, repair, or other processes through which the device is returned for use in its original form. Refurbishment would fall under reuse, since the component parts are used in their original form, although they can have been repaired.

I also thought it would be worthwhile to bring to your attention an issue that has arisen in Washington state and has caused justifiable concern among the reuse community--it appears to contradict efforts to promote refurbishment as a viable option. The WA law allows a collection site (which could be Goodwill) to cherry pick a computer out of the material collected for resale, but does not allow the collection site to refurbish a computer from the collection batch for resale. This could have a serious impact on the number of computers that will be refurbished. In the attached article one of the interviewees states that at least 50% of the computers they receive have minor problems that can be fixed with minor refurbishing but render them useless without the refurbishing.

Neither Toral nor I have been able to find anything in Wisconsin's bill that would prohibit a collector or recycler to cherry pick computers for immediate resale or for refurbishing and resale. However, you probably can expect to hear the same concern among local refurbishers that heard about the Washington issue and believe Miller's bill will have the same impact on them.

John G. Anderson
Office of Senator Mark Miller
State Capitol Room 409 South
P O Box 7882
Madison, WI 53707
Phone: (608) 266-9170
Fax: (608) 266-5087

John

To continue the discussion:

A. Fees

To recap what we heard from an admittedly small but select group of recyclers and local gov'ts,

1. There is general support to allow a reasonable fee to be charged for a limited-time transition period of two or three years.
2. This information (whether they might charge a collection fee) should be part of the information posted on the DNR website.
3. Recyclers believe they should have the option of charging a fee as well as local gov't, although their level of support appears to be a function of their size.
 - CRT Processing, which would be considered a "large" recycler on the national scene, operates through a consortium of manufacturers and recyclers. While CRT does not oppose allowing a fee for a limited time period, they don't think it is really necessary and they likely would not charge one. They have ability to leverage collections and market fluctuations due to their ties to other manufacturers and recyclers through the consortium.
 - Cascade, which is a relatively small player on the national scene, has argued they need the option of charging a fee to weather market downturns and collection surges. They contract with multiple manufacturers and collectors in a number of states with legislation, but are not a member of a consortium.
 - While Cascade is a small recycler on the national scene, they are large compared to most other Wisconsin recyclers. Smaller recyclers would also have problems weathering market fluctuations and larger than expected collections.
4. If these fees are allowed in the legislation, DNR would have to define reasonable, most likely through guidance –what items could be covered and requiring the business to document why charging a fee was necessary and what it covered.
5. If these fees are allowed, DNR would prefer that they not require a waiver or special case-by-case consideration by the program. This would be an administrative burden to the program.
6. Minnesota's bill does not address this (neither allows nor prohibits charging a fee). Per the attached article, it appears that some recyclers and collectors in MN are considering charging a fee.

Pros in allowing a fee to be charged for the initial transition period:

1. Allows recyclers, etc., time to learn from experience on how to negotiate contract provisions with manufacturers- what amount to contract for, how to manage collections so that the amount collected is manageable, and to learn what costs should be covered in the collection contracts.
2. Allows time for the market to adjust- both to the economic downturn and for the material flow to stabilize after households have gotten rid of old material. Over time, the expectation is that the number of permanent collection centers would increase and one-day events decrease. Collection volumes at the latter are particularly hard to manage and anticipate.
3. Allows for recyclers and collectors, especially municipalities, to recoup up-front costs for collections already planned, and to adjust how permanent drop-off centers are funded as they figure out where manufacturer contracts fit in.
4. Other state programs do not prohibit charging a fee.

5. Although I have not yet heard back from Lynn Morgan (now have 2 calls in to her) based on what I've seen in a number of news releases, I believe charging a fee is the solution that Waste Mgt has selected to address the surplus collection problem.

Cons in allowing a fee to be charged:

1. Concern that manufacturers will take advantage of this in negotiating a collection price with recyclers- pay less per pound knowing recyclers can make up the difference in collection fees. We believe this will be discouraged by clearly stating the fee provision will sunset after a prescribed transition.

B. Program Operation costs in fiscal year 2008 and 09 through Sept 2009

- The \$26,700 allocated for the fiscal year 2008-09 and \$160,000 under continuing funding for the next biennium, both from the Recycling/Renewable Energy Seg fund s. 20.370 (2), (hq) cover the salary, fringe benefits and supply line expenses for 1.0 permanent FTE and 1.0 project FTE, but not other program expenses.
- Upon hiring (assume in May 2009), these 2.0 FTE would immediately begin development of outreach materials in print and on the web, hold public workshops to educate the impacted parties on their respective responsibilities and develop interim methods to track registration. These 2.0 FTE will manage the program until after September 2009 when registration fees are deposited in the Electronics Waste Recycling fund s. 20.370 (2) (hr) and funds are available for program administration.
- Monies from the Electronics Waste Recycling fund s. 20.370 (2) (hr) are to be used to cover program administration. Because s. 20.370 (2) (hr) program funds won't be generated until September when manufacturers register, the Department's Waste & Materials program will have to absorb up-front costs for outreach and education efforts needed immediately after the bill is signed, most likely during the period from May-September 2009. We originally thought that the Department's Recycling program could absorb these under its existing program funds. However, due to the recent budget cutbacks, the Waste & Materials program does not have the funds to reallocate.
- We request:
 1. Expand funding authorization from s. 20.370 (2) (hq) under Section 11 (Fiscal changes) on page 29 to cover positions and program administration
 2. Increase the funding amount in fiscal year 2008-09 in Section 11, (1) to \$40,000 from \$26,700, and in Section 11 (2) to \$170,000 from \$160,000 for the first year of the next fiscal biennium. This would result in additional funding of \$13,300 in FY 2008-09 (covering the period May- June 30), and an additional \$10,000 for the first fiscal year of the 2009-11 fiscal biennium (covering expenses from July-September).

• We've estimated outreach costs as itemized below-

| | |
|--|----------|
| ➤ Outreach/educational materials (Graphics designer, printing/mailing) | \$10,000 |
| ➤ Workshops (room rental, support needs such as audio-video) | 5,000 |
| ➤ Databases and other information needs | 8,300 |

➤ The Recycling/Renewable Energy SEG fund s. 20.370 (2) (hq) is projected to have a balance of about \$3M at the end of FY 09 and, assuming biennial budget decisions balance the fund in FY 10 and FY 11, the fund could absorb this extra amount.

C. DNR spending authority under Section 1 (page 4).

This section authorizes monies deposited into the Electronic Waste Recycling fund s. 20.370 (2) (hr) to be used for administration of this program. However, unlike for funds received from the Recycling and Renewable Energy fund s. 20.370 (2) (hq) in Section 11 (1) and (2) on page 29, the bill does not allocate how s. 20.370 (2) (hr) funds can be used or how much can be used by DNR for program administration.

Should Section 10 (2) on page 28 be revised to also authorize program administration expenses? We've anticipated program expenses for the first 4 years of the program, and assume that 4th year expenses would be the base for subsequent years.

In order to administer the program over the next 4 years, we request that the spending authority for program administration be allocated from s. 20.370 2 (hr) over the next 2 biennia to meet these needs.

| Administrative Expenses | FY09 | FY10 | FY11 | FY12 | FY13 |
|--|--------|---------|---------|---------|---------|
| Recycling Renewable Energy fund s. 20.370 2 (hq) | | | | | |
| 1 perm FTE | 26,700 | 80,000 | 80,000 | 80,000 | 80,000 |
| 1 project FTE | | 80,000 | 80,000 | | |
| Outreach/ data needs | 13,300 | 10,000 | | | |
| 2(hq) Total | 40,000 | 170,000 | 160,000 | 80,000 | 80,000 |
| Electronic Waste Recycling s. 20.370 2 (hr) | | | | | |
| 1 perm FTE | | 80,000 | 80,000 | 80,000 | 80,000 |
| 1 project FTE | | 80,000 | 80,000 | | |
| Data system development/on-line registration | | 50,000 | 25,000 | 10,000 | 10,000 |
| Data purchases (national sales database) | | 20,000 | 20,000 | 20,000 | 20,000 |
| Outreach | | 10,000 | 10,000 | 10,000 | 10,000 |
| 2(hr) Total | 0 | 240,000 | 215,000 | 120,000 | 120,000 |
| Total Expenses | | 410,000 | 375,000 | 200,000 | 200,000 |
| Not in original drafting language, to cover period May - Sept 2009 | | | | | |