

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-094472

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2009 BILL

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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 ^(CS) and printers
and ^{CONSUMER} printers (covered electronic 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.

Inset A

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.

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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

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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.

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BILL**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).

BILL

- 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.~~ *8m. A consumer printer, as defined in s. 287.17(1)(eg).*
- 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:

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SECTION 4

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 ^{eligible} electronic devices, as defined
6 in s. 287.17 (1) ~~(f)~~ ^(g); 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 ^{eligible}
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.

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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) ^{gs} Covered ^e Eligible "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 ^{→ 6m. A consumer printer.} 7. Another kind of electronic device identified by the department under sub.

23 (10) (i).

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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.

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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 *Insert A* 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. ✓

other than a consumer printer

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 *eligible* 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 *eligible* electronic devices for use in
25 manufacturing processes or for recovery of useable materials and delivering the

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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~~^{eligible} 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~~^{Insert A} 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~~^{covered electronic} 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~~^{Insert A} device unless all of the following apply:

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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 ^{eligible} electronic devices used by households in this state.

8 5. Individuals are not charged a fee when they relinquish covered ^{eligible} electronic
9 devices for recycling under subd. 4., *except as provided under par. (d)*

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 ^{eligible} 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 ^{Insert A} consumer video display device unless, before making
16 the first offer for sale, the retailer has determined that the brand of the ^{insert A} 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 ^{Insert A} consumer video display device of the manufacturer before the
20 registration was revoked or expired, the retailer may sell the ^{Insert A} 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.

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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:

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1. A list of the manufacturer's brands of ~~consumer video display~~ ^{Insert A} devices offered for sale in this state.
2. The name, address, and contact information of an individual responsible for ensuring compliance with this section.
3. A certification that the manufacturer has complied, and will continue to comply, with the requirements of this section.
- (b) Beginning with the registration due by September 1, 2010, a manufacturer shall indicate in its registration under par. (a) which of the following applies:
1. The manufacturer's ~~consumer video display~~ ^{Insert A} devices comply with the European Union directive on the restriction of the use of hazardous substances in electrical and electronic equipment, 2002/95/EC or a successor directive.
2. The manufacturer's ~~consumer video display~~ ^{Insert A} devices do not comply with the European Union directive on the restriction of the use of hazardous substances in electrical and electronic equipment, 2002/95/EC or a successor directive.
- (c) Notwithstanding the deadline in par. (a), a manufacturer who begins selling ~~consumer video display~~ ^{Insert A} devices after September 1, 2009, and who has not previously submitted a registration under this subsection shall submit a registration to the department not more than 10 days after the day on which the manufacturer begins selling or offering to sell ~~consumer video display~~ ^{Insert A} devices.
- (d) If a manufacturer changes the brands that it sells or offers to sell, the manufacturer shall update its registration not more than 10 days after making the change.
- (e) A complete registration is effective on receipt by the department and is valid until the following September 1 unless revoked before that date.

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

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

7 (b) *Registration fees.* 1. If the manufacturer sold at least 100 ^{Insert A} ~~consumer video~~
8 ~~display~~ devices in this state during the previous program year, the manufacturer
9 shall pay a registration fee of \$5,000, except, as provided under sub. (10) (k).

10 2. If the manufacturer sold at least 25 but fewer than 100 ~~consumer video~~
11 ~~display~~ ^{Insert A} devices in this state during the previous program year, the manufacturer
12 shall pay a registration fee of \$1,250.

13 3. If the manufacturer sold fewer than 25 ~~consumer video display~~ ^{Insert A} devices in this
14 state during the previous program year, the manufacturer is not required to pay a
15 registration fee.

16 (bm) *Shortfall fees.* In addition to the registration fee, beginning in 2010, a
17 manufacturer shall pay shortfall fees under par. (c) or (d) if the amounts calculated
18 under those provisions are positive numbers, except that a manufacturer is not
19 required to pay shortfall fees until its ~~consumer video display~~ ^{Insert A} devices have been sold
20 or offered for sale to households in this state for 3 full program years.

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

23 1. Determine the manufacturer's target recycling weight by multiplying the
24 number of pounds of the manufacturer's ~~consumer video display~~ ^{Insert A} devices sold to

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1 households in this state, as reported in 2010 under sub. (5) (a), by 0.6 and multiplying
2 the product by 0.75.

3 2. Determine the actual recycling weight equal to the weight of covered ^{eligible}
4 electronic devices recycled by or on behalf of the manufacturer during the last 3
5 program quarters of program year 2009-10, as determined under par. (f) 2.

6 3. Subtract the actual recycling weight, determined under subd. 2., from the
7 target recycling weight, determined under subd. 1.

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

10 a. Fifty cents per pound for a manufacturer if the weight of covered ^{eligible} electronic
11 devices recycled by or on behalf of the manufacturer, as determined under subd. 2.,
12 is less than 50 percent of the target recycling weight, determined under subd. 1.

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

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

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

22 1. Determine the manufacturer's target recycling weight by multiplying the
23 number of pounds of the manufacturer's ^{INSERT A} consumer video display ^{eligible} devices sold to
24 households in this state, as reported in that year under sub. (5) (a), by 0.8.

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eligible ✓
covered ✓

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

6 3. Subtract the actual recycling weight, determined under subd. 2., from the
 7 target recycling weight, determined under subd. 1.

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

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

eligible ✓
covered ✓

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

eligible ✓
covered ✓

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

eligible ✓
covered ✓

20 (e) *Recycling credits.* If, for a program year, the weight of covered electronic
 21 devices recycled by or on behalf of a manufacturer, as determined under par. (f) 1.,
 22 exceeds the target recycling weight determined under par. (c) 1. or (d) 1., the
 23 manufacturer has a number of recycling credits equal to the number of excess
 24 pounds. The manufacturer may use the credits for the purpose of par. (d) 2. for any

eligible ✓
covered ✓

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1 of the 3 succeeding program years or may sell credits to another manufacturer for
2 use for any of the 3 succeeding program years. ^{eligible}

3 (f) *Weight recycled.* 1. The weight of ~~covered~~ ^{eligible} electronic devices recycled by or
4 on behalf of a manufacturer for a program year is the weight reported under sub. (5)

5 (b) for that program year, except that if the manufacturer reports separately the
6 weight of ~~covered~~ ^{eligible} electronic devices used by households in rural counties and used
7 by households in urban counties for a program year, the weight is determined by
8 adding the weight used by households in urban counties in that program year and
9 1.5 times the weight used by households in rural counties in that program year.

10 2. The weight of ~~covered~~ ^{eligible} electronic devices recycled by or on behalf of a
11 manufacturer for the last 3 program quarters of program year 2009-10 is the weight
12 reported under sub. (5) (b) for that period, except that if the manufacturer reports
13 separately the weight of ~~covered~~ ^{eligible} electronic devices used by households in rural
14 counties and used by households in urban counties for that period, the weight is
15 determined by adding the weight used by households in urban counties in that period
16 and 1.5 times the weight used by households in rural counties in that period.

17 (5) MANUFACTURERS REPORTING REQUIREMENTS. (a) *Weight of* ~~consumer video~~
18 ^{of covered electronic} ~~display~~ devices sold. 1. Except as provided in subd. 3., with the registration that it
19 submits under sub. (3) beginning in 2010, a manufacturer shall report one of the
20 following to the department:

21 a. The total weight of each model of its ^{Insert A} ~~consumer video display~~
22 households in this state during the program year that began 36 months before the
23 beginning of the program year in which the report is made.

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1 b. The total weight of all of its consumer video display ^{✓ Insert A} devices sold to
 2 households in this state during the program year that began 36 months before the
 3 beginning of the program year in which the report is made.

4 c. An estimate, based on national sales data, of the total weight of its consumer [✓]
 5 video display ^{or Insert A} devices sold to households in this state during the program year that
 6 began 36 months before the beginning of the program year in which the report is
 7 made.

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

10 3. A manufacturer is not required to report under subd. 1. until its consumer [✓]
 11 video display ^{or Insert A} devices have been sold or offered for sale to households in this state for
 12 one full program year.

13 (b) *Weight of* covered ^{eligible} *electronic devices recycled.* With the registration that it
 14 submits under sub. (3) in 2010, a manufacturer shall report to the department the
 15 total weight of covered ^{eligible} electronic devices used by households in this state that were
 16 collected by or delivered to the manufacturer for recycling by the manufacturer or
 17 that were collected by or delivered to a registered recycler for recycling on behalf of
 18 the manufacturer during the last 3 program quarters of the preceding program year.

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

25 covered ^{eligible} electronic devices used by households in rural counties and used by

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1 households in urban counties for the purpose of obtaining the weight adjustment
2 under sub. (4) (f) for covered ^{eligible} electronic devices received from households in rural
3 counties.

4 (c) *Recycling credits.* With the registration that it submits under sub. (3),
5 beginning in 2011, 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 shortfall fees under sub. (4) (d) 2.

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

14 (7) COLLECTORS. (a) *Registration.* 1. Beginning on August 1, 2009, no person
15 may operate as a collector delivering or arranging for the delivery of covered ^{eligible}
16 electronic devices to a registered recycler unless the person submits to the
17 department an annual registration, using a form prescribed by the department, that
18 includes all of the following:

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

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

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

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

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

10 (8) RECYCLERS. (a) *Registration.* 1. Beginning on August 1, 2009, no person
11 may operate as a recycler receiving ~~covered~~^{eligible} electronic devices on behalf of a
12 manufacturer who is registered under sub. (3) unless the person submits to the
13 department an annual registration, using a form prescribed by the department, that
14 includes all of the following:

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

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

21 (b) *Reports and records.* No later than August 1 of each program year,
22 beginning with August 1, 2010, a registered recycler shall report to the department
23 the total weight of ~~covered~~^{eligible} electronic devices collected in this state that the recycler
24 received for recycling on behalf of a manufacturer registered under sub. (3) during
25 the preceding program year and the name of the manufacturer. A registered recycler

BILL

1 shall maintain records of the sources of ~~covered~~^{eligible} electronic devices collected in this
2 state that the recycler receives for recycling on behalf of a manufacturer registered
3 under sub. (3).

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

7 2. A registered recycler may not use prison labor to recycle ~~covered~~^{eligible} electronic
8 devices the weight of which was or will be reported under sub. (5) (b).

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

19 a. A surety bond.

20 b. A deposit of cash, certificates of deposit, or securities issued by the federal
21 government.

22 c. An escrow account.

23 d. An irrevocable letter of credit.

24 e. An irrevocable trust.

BILL

SECTION 6

1 4. A registered recycler shall maintain, and make available to manufacturers
2 upon request, records that can be used to determine, for each program year, the total
3 weight of ~~covered~~^{or eligible} electronic devices received by the recycler, the weight of materials
4 derived from ~~covered~~^{or eligible} electronic devices that the registered recycler sends to another
5 person for use in a manufacturing process or for recovery of useable materials, and
6 the weight of materials derived from ~~covered~~^{or eligible} electronic devices that the registered
7 recycler sends to be disposed of in a solid waste disposal facility or burned at a solid
8 waste treatment facility.

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

11 a. Identify each person who received from the registered recycler materials
12 derived from ~~covered~~^{or eligible} electronic devices.

13 b. If a person identified under subd. 5. a. does not use the materials in a
14 manufacturing process, identify each person who receives from the person identified
15 under subd. 5. a. materials derived from ~~covered~~^{or eligible} electronic devices.

16 6. A registered recycler shall maintain records that show the actions that it
17 takes to ensure that the persons identified under subd. 5. use the materials derived
18 from ~~covered~~^{or eligible} electronic devices in a manufacturing process or for recovery of useable
19 materials.

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

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

BILL

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

4 1. Complies with par. (c).

5 2. Complies with federal, state, and local requirements concerning the storage,
6 transportation, processing, and exporting of ~~covered~~^{eligible} electronic devices and materials
7 derived from ~~covered~~^{eligible} electronic devices, including the requirements in 40 CFR
8 261.39 (a) (5) and 273.20 and requirements in rules promulgated under s. 291.05.

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

11 (e) *Modifying or adding requirements by rule.* The department shall review the
12 requirements under par. (c) 1. to 7. to determine whether it is necessary to modify
13 or add to those requirements so that the requirements applicable to registered
14 recyclers are at least equivalent to nationally recognized standards for recycling
15 ~~covered~~^{eligible} electronic devices. If the department determines that it is necessary to
16 modify or add to the requirements under par. (c) 1. to 7., the department shall
17 promulgate rules that modify or add to the requirements so that they are at least
18 equivalent to nationally recognized standards for recycling ~~covered~~^{eligible} electronic
19 devices.

20 (9) RETAILERS. A retailer who sells ~~consumer video display~~^{Insert A} devices for use by
21 households shall provide to purchasers information describing how ~~covered~~^{eligible}
22 electronic devices can be collected and recycled and a description of the prohibitions
23 in s. 287.07 (5) (a). A retailer may satisfy this requirement by providing a toll-free
24 number for receiving the information and a description of how to access the
25 department's Internet site under sub. (10) (a). A retailer who sells through a catalog

BILL**SECTION 6**

1 may provide the information in the catalog. A retailer who sells through the Internet
2 may provide the information on its Internet site.

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

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

19 (am) *Internet site; recyclers.* The department shall maintain an Internet site
20 on which the department lists the names of registered recyclers. The department
21 shall update the information on the Internet site promptly upon receipt of a new or
22 revised registration.

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

BILL

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

7 2. If the department refuses to release information on the grounds that it is
8 confidential under subd. 1. and ^{anyone} a person challenges that refusal, the department
9 shall inform the ^{person who submitted the application under subd. 1.} affected participant of that challenge. Unless the participant
10 ^{that person} authorizes the department to release the information, ^{that person} the participant shall pay the
11 reasonable costs incurred by this state to defend the refusal to release the
12 information.

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

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

21 a. The number by which the weight of consumer video display ^{g. Inset A} devices sold is
22 multiplied under sub. (4) (d) 1. to determine target recycling weight.

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

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

BILL

SECTION 6

1 d. The multiplier for the weight of ~~covered~~^{eligible} electronic devices collected from
2 households in rural counties under sub. (4) (f).

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

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

12 1. The total weight of ~~covered~~^{eligible} electronic devices recycled.

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

15 3. Information concerning the recycling programs used by manufacturers to
16 recycle ~~covered~~^{eligible} electronic devices.

17 4. Information concerning the collection and recycling of ~~covered~~^{eligible} electronic
18 devices by persons other than registered manufacturers, collectors, and recyclers.

19 5. Information about any disposal of ~~covered~~^{eligible} electronic devices in landfills in
20 this state.

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

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

24 (e) *Report concerning federal legislation.* If a federal law relating to the
25 collection and recycling of ~~consumer video display~~^{Insert A} devices sold in the United States

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1 is enacted, the department shall prepare a report describing the effect of the federal
2 law and shall submit the report under s. 13.172 (3) to the committee of each house
3 of the legislature with jurisdiction over solid waste policy.

4 (f) *Outreach and communication.* 1. The department shall promote public
5 participation in the collection and recycling of ~~covered~~^{eligible} electronic devices by and on
6 behalf of manufacturers through education and outreach activities. The department
7 shall facilitate communications between local governments, persons operating solid
8 waste collection and recycling centers, and manufacturers to ensure that
9 manufacturers are aware of ~~covered~~^{eligible} electronic devices that are available for
10 recycling.

11 2. The department shall assist recyclers to identify federal and state
12 requirements concerning the storage, transportation, export, and processing of
13 ~~covered~~^{eligible} electronic devices and materials derived from ~~covered~~^{eligible} electronic devices.
14 The department shall assist collectors to identify health, environmental, safety, and
15 financial responsibility requirements applicable to collectors.

16 (g) *Cooperation with other states.* The department may cooperate with other
17 states to effectuate the program under this section. The department may, with other
18 states, operate a regional system for creating, trading, and selling credits for
19 recycling ~~covered~~^{eligible} electronic devices.

20 (h) *Suspension and revocation.* The department may revoke the registration
21 of a manufacturer who violates sub. (2) (a), (3), (4), or (5). The department may
22 suspend or revoke the registration of a collector or recycler who violates sub. (7) or
23 (8).

24 (i) *Addition or exemption of* ~~covered~~^{eligible} *electronic devices.* If the department
25 determines that the disposal or burning of a kind of electronic device that is not listed

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SECTION 6

1 in sub. (1) ~~(b)~~ ^{or paragraph (g)} in a solid waste facility may be harmful to human health or the
2 environment, the department may promulgate a rule specifying that the kind of
3 electronic device is ~~a covered~~ ^{an eligible} electronic device, is subject to s. 287.07 (5) (a), or both.
4 If the department determines that the disposal or burning of a kind of electronic
5 device that is listed in sub. (1) ~~(b)~~ ^{or paragraph (g)} or s. 287.07 (5) (a) in a solid waste facility is not
6 harmful to human health and is not harmful to the environment or if the department
7 determines that it is not feasible to require the recycling of a kind of electronic device
8 that is listed in sub. (1) ~~(b)~~ ^{or paragraph (g)} or s. 287.07 (5) (a), the department may promulgate a rule
9 specifying that the kind of electronic device is not ~~a covered~~ ^{an eligible} electronic device, is not
10 subject to s. 287.07 (5) (a), or both.

11 (j) *Audits.* The department may perform or contract for the performance of an
12 audit of the activities of a registered collector or registered recycler. If the
13 department performs or contracts for the performance an audit of a collector or
14 recycler during the first 3 years in which the collector or recycler is registered under
15 sub. (7) or (8) (a), the collector or recycler shall pay 25 percent of the cost of the audit.
16 If the department performs or contracts for the performance of an audit of a collector
17 or recycler after the first 3 years in which the collector or recycler is registered, the
18 collector or recycler shall pay 50 percent of the cost of the audit.

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

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

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

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

BILL

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

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

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

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

9 **287.97 Penalties.** Any person who violates this chapter, except s. 287.07,
10 287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under
11 s. 287.07, 287.08 or 287.81, may be required to forfeit not less than \$10 nor more than
12 \$1,000 for each violation.

13 **SECTION 10. Nonstatutory provisions.**

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

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

24 (3) PROJECT POSITION AUTHORIZATION.

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SECTION 10

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

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

SECTION 11. Fiscal changes.

9
 10 (1) FUNDING FOR POSITIONS. ^{(CS) and administration} In the schedule under section 20.005 (3) of the
 11 statutes for the appropriation to the department of natural resources under section
 12 20.370 (2) (hq) of the statutes, as affected by the acts of ²⁰⁰⁹ 2007, the dollar amount is
 13 increased by ~~\$26,700~~ ^{40,000} for fiscal year 2008-09 to increase the authorized FTE positions
 14 for the department by 1.0 SEG position for administration of the electronic waste
 15 recycling program ^{and} and to fund the 1.0 FTE SEG project position authorized under
 16 SECTION 10 (3) (a) of this act. _{recycling program}

17 (2) CONTINUED FUNDING FOR POSITIONS. ^{(CS) and administration} In the schedule under section 20.005 (3)
 18 of the statutes for the appropriation to the department of natural resources under
 19 section 20.370 (2) (hq) of the statutes, as affected by the acts of 2009, the dollar
 20 amount is increased by ~~\$160,000~~ ^{160,000} for the first fiscal year of the fiscal biennium in
 21 which this subsection takes effect to provide continued funding for the positions _{and}
 22 authorized under this act. In the schedule under section 20.005 (3) of the statutes
 23 for the appropriation to the department of natural resources under section 20.370 (2)
 24 (hq) of the statutes, as affected by the acts of 2009, the dollar amount is increased

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1 by \$160,000 for the second fiscal year of the fiscal biennium in which this subsection
2 takes effect *For administration of the electronic waste recycling program and* to provide continued funding for the positions authorized under this act.

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

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

7 (END)

1 **Insert A (used repeatedly)**

2 covered electronic

3 **Analysis insert**

4 *PH* The bill generally prohibits the charging of a fee when an individual
relinquishes an eligible electronic device for recycling on behalf of a manufacturer.
The bill authorizes DNR to grant a waiver so that a city, village, town, or county may
charge a fee in that circumstance, but the waiver may not extend beyond September
1, 2012.

4 **Insert 6-25**

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

7 a. A desktop printer.

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

10 2. "Consumer printer" does not include a calculator with printing capabilities
11 or a label maker.

12 **Insert 7-10**

13 (f) "Covered electronic device" means a consumer video display device or a
14 consumer printer.

15 **Insert 10-22**

16 (d) *Fee for relinquishment.* 1. A city, village, town, or county that collects
17 eligible electronic devices for delivery to a registered recycler for recycling on behalf
18 of a manufacturer may apply to the department for a waiver of the prohibition under
19 par. (a) 5. to allow the city, village, town, or county to charge a fee to individuals when
20 the individuals relinquish those eligible electronic devices.

- 1 2. The department may grant a waiver based on an application under subd. 1.
- 2 for a term specified by the department, but the department may not grant a waiver
- 3 with a term that extends beyond September 1, 2012.

Tradewell, Becky

From: Anderson, John
Sent: Tuesday, February 10, 2009 3:01 PM
To: Tradewell, Becky; Stolzenberg, John
Subject: LRB 0944.2 Drafting instructions for changes 2.10.09.doc

Attachments: LRB 0944.2 Drafting instructions for changes 2.9.09.doc

Becky and John,

I hope these are the final changes we need to LRB 0944/2. Please call/email with any questions. I apologize for the split formats. I hope this is clear to you. Thank you very much. John



LRB 0944.2
Drafting instructi...

Requested Changes to LRB 0944/2

Item	Location	Recommended change	Explanation/Intent
✓ 1	p. 3, lines 1-3	Change so that the multiplier is 0.8 for all years, including the first	We are eliminating a first year 60% requirement and using simply 80% for all years.
✓ 2	p. 3, line 4	Replace "variable" with "shortfall"	Consistency with current bill language.
✓ 3	p. 9, line 9	Insert "exclusively" or "solely" before "for refurbishing or recycling"	Make it clear that manufactures are still covered by the law if they accept devices both for recycling and for reuse/refurbishing
4	p. 11, lines 10-14	Make it explicitly clear that municipalities have to be registered collectors to collect EEDs under the program and charge the fee. Suggestion is to add "as a registered collector" after "eligible electronic devices" in line 11.	We want to ensure that any municipalities charging a fee for devices that count toward manufacturers' recycling totals are a registered part of the program. This will both make it easier for DNR to administer the waiver, because we can tie it into their registration, and avoid the possibility of a municipality holding an event in name only (e.g., an event that is really operated by a business) just to charge the fee.
✓ 5	p. 13, line 22	Change 0.6 to 0.8 for first-year multiplier	See #1
6	p. 14, lines 6-7 and p. 15, lines 5-6	Clarify that manufacturers only need to perform the calculation if the number the previous subdivision is positive (e.g., they did not collect enough to meet their target)	Would add additional clarification to be sure manufacturers don't make unnecessary calculations.
✓ 7	p. 18, lines 7-11	Clarify that collectors only need to register in order to deliver devices to registered recyclers if the devices will be counted toward a manufacturer's recycling total	We have already added a similar clarification for recyclers on p. 19, lines 3-7. If a recycler that is registered under the program also takes EED that are not counting toward the program, collectors of those devices should not need to register.
8	p. 25, lines 14-15	Add language to include incineration, not just landfilling.	Consistent with language throughout rest of bill.

- ✓ 9. Fees: We have decided AGAINST prohibiting any entity from collecting a fee. Please remove any references to collection fees. So, municipalities and counties may continue to charge a fee to accept electronics. Or other entities. No waivers needed at all.
- ✓ 10. Rule-making: p. 28, lines 14-15: The DNR should have the authority to make rules, but not prior to 36 months after enactment, not prohibited from rulemaking after 36 months as in the current draft.
- ✓ 11. RE: Responsibility of solid waste disposal facility: change page 5, line 16 to "recycled, only a device of a kind subject to par (a) (8)" - RATIONALE: This needs to be consistent with the wording from SB 397. Sen. Miller made no changes to the requirements and responsibilities of the solid waste disposal facility operators from SB 397.

✓12. In addition to adding printers as CEDs, please include desktop computers as Covered Electronic Devices: Define desktop computer as: "Desktop computer" is an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. A desktop computer is not designed for portability and generally utilizes an external monitor, keyboard, and mouse with an external or internal power supply for a power source. Desktop computer CPU does not include an automated typewriter or typesetter.

✓13. Reduce the rural incentive to 1.25 down from 1.5. List the following counties as 'Urban': Brown, Calumet, Chippewa, Dane, Dodge, Douglas, Dunn, Eau Claire, Fond du Lac, Grant, Green, Jefferson, Kenosha, La Crosse, Lincoln, Manitowoc, Marathon, Marinette, Milwaukee, Outagamie, Ozaukee, Pierce, Portage, Racine, Rock, Sauk, Sheboygan, St. Croix, Walworth, Washington, Waukesha, Winnebago, Wood. (a larger list than SB 397)

✓14. Place a 20% cap on carryover pounds to the next year by manufacturers.

10p
15. Require manufacturers to report their current-year targets when they register (by Sept. 1). This will be a slight delay from the beginning of the program year in July, but should still give recyclers a good picture early on and will allow the manufacturers to take into account any carryover credits, which they would not be able to calculate by July 1.

16. Require recyclers to do a simple, mid-year report to DNR (this would be due Jan. 15) that would include:
- a. The pounds they have sold to manufacturers.
 - b. The pounds they have processed and are planning to try to sell to manufacturers.
- This would be added to the list of recycler requirements on p. 19 of the most recent draft.

✓17. Please add language to prohibit 'prison facilities' from being used as part of the program. We prohibit prison labor, but we need to include prison facilities as well in the prohibition, as long as the recycler/ collector is participating in the program.

Questions/clarifications:
p. 16, line 17: This is the only place that mentions "model" instead of "brand"—is that intentional because of how the data are likely kept?

Tradewell, Becky

From: Anderson, John
Sent: Monday, February 16, 2009 3:04 PM
To: Stolzenberg, John; Moore, Cynthia G - DNR
Cc: Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Bangert, Suzanne A - DNR; 'Toral Jha'; Tradewell, Becky
Subject: RE: updates to the fact sheets?

Yes, thank you both for working on clarifying this.

From: Stolzenberg, John
Sent: Monday, February 16, 2009 3:03 PM
To: Moore, Cynthia G - DNR; Anderson, John
Cc: Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Bangert, Suzanne A - DNR; Toral Jha; Tradewell, Becky
Subject: RE: updates to the fact sheets?

Cynthia,

Yes, your response is clear and helpful.

John A.,

Should Becky draft the bill to reflect Cynthia's most recent note?

John

John Stolzenberg,
Legislative Council
266-2988

From: Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]
Sent: Monday, February 16, 2009 2:24 PM
To: Stolzenberg, John
Cc: Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Bangert, Suzanne A - DNR; Toral Jha; Anderson, John; Tradewell, Becky
Subject: RE: updates to the fact sheets?

John
Does this help?

On the first issue, the intent is to ask recyclers to report on what was collected for recycling for that program year midyear - i.e., by the end of the 2nd program quarter. As you note, what is collected for recycling is not the same as what is recycled and the report should be on what was collected, not on what was actually recycled. Actual recycling may occur later that program year or even in the following program year.

Our intent, and what Waste Mgt believes would be most useful for recyclers, is to capture 2 streams of EED that have been collected for recycling. It would work best if the recycler reported these separately in the mid-year report.

1) what they've collected **on behalf of a manufacturer** - i.e. they know they will be reimbursed for this part of the collection stream by a manufacturer with whom they have a contract. This is the same stream that they'd report at the end of the year (for the last two quarters since there is now a mid-year report).

2) what they've collected **speculatively** (i.e. in excess of what they have contracts for) in anticipation of being able to sell to a manufacturer for use the program. This information will give recyclers a sense of where the market is mid-year. (i.e., so they would know if it's likely that the recyclers have collected enough to meet the targets, even if they haven't sold all the credits to manufacturers yet). Recyclers would only be expected to report speculative collections mid year and NOT as part of the end-of-year report.

 *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: Stolzenberg, John [<mailto:John.Stolzenberg@legis.wisconsin.gov>]

Sent: Monday, February 16, 2009 11:43 AM

To: Moore, Cynthia G - DNR

Cc: Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Bangert, Suzanne A - DNR; Toral Jha; Anderson, John - LEGIS; Tradewell, Becky - LEGIS

Subject: RE: updates to the fact sheets?

Cynthia,

Just to confirm, I read your response to mean that the reporting of recycling activity by registered manufacturers and recyclers under the bill should be based upon the amount of EED that is collected and received by a registered recycler on behalf of a registered manufacturer during the applicable reporting period and not the amount of EED that the recycler receives and recycles during that period on behalf of a registered manufacturer. In other words, if a recycler receives EED on behalf of a manufacturer in a program year (say, PY 2011) and actually recycles that EED in the next program year (PY 2012), this EED will be reported and counted in the former program year (PY 2011) even though it is not recycled until PY 2012. Correct?

Here's another clarification on the drafting instructions for the new midyear report: your response limits this new report to the amount of EED received by a registered recycler on behalf of a registered manufacturer in the first six months of a program year. It does not include a requirement for a registered recycler to report the amount of EEG that it received in the first six months of a program year and not yet attributed to a particular registered manufacturer. John A.'s February 10 drafting instructions got at this second category, albeit in terms of the amount recycled rather than the amount received by the recycler. Does the Department want a recycler to report the amount of EED collected and received by the recycler on

speculation and not yet attributed to a manufacturer by the end of the reporting period? If so, should recyclers also report their unattributed EED inventory at the end of a program year as part of the annual report due August 1?

Also, I'd note that Becky raised this issue with me, so she gets credit for the catch.

John

John Stolzenberg,
Legislative Council
266-2988

From: Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]
Sent: Monday, February 16, 2009 10:47 AM
To: Anderson, John
Cc: Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Bangert, Suzanne A - DNR; Toral Jha; Stolzenberg, John
Subject: RE: updates to the fact sheets?

John

good catch by JS.. to keep this simple, mid year reporting for recyclers should be consistent with the end of year report- they should report "total weight of EED collected in this state that the recycler received for recycling on behalf.. " .

 *Cynthia G Moore*

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From: Anderson, John [mailto:John.Anderson@legis.wisconsin.gov]
Sent: Monday, February 16, 2009 10:27 AM
To: Moore, Cynthia G - DNR
Cc: Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Bangert, Suzanne A - DNR; Toral Jha; Stolzenberg, John - LEGIS
Subject: RE: updates to the fact sheets?

Cynthia et al: John Stolzenberg raised an issue regarding reporting mid year by recyclers. John asked how this squares with reporting required under /2 on page 19 lines 14-21. as drafted,

recyclers report what comes in the door, not what has been recycled. How were you envisioning a midyear report to be worded to be consistent with this section of the /2? I've cc'd John so you can reply to all of us. Thanks, much. j


From: Moore, Cynthia G - DNR [mailto:Cynthia.Moore@Wisconsin.gov]
Sent: Monday, February 16, 2009 9:46 AM
To: Anderson, John
Cc: Murray, Sarah C - DNR; Mitchell, Gene R - DNR; Bangert, Suzanne A - DNR; Toral Jha
Subject: updates to the fact sheets?

John

We were thinking it would be good to update the fact sheets with the latest changes you've settled on before the bill is introduced - which I understand you are planning to do shortly after the Governor presents his budget tomorrow evening. To make sure we cover all the changes correctly, it would probably be best for us to work from a list you've put together or from an updated draft if one is available yet.

We'd also update the table summarizing major revisions from SB 397. I've gotten some calls from recyclers asking about the bill and what has been changed. Would it be okay to send our workgroup an advance copy of the table of changes, once we've updated it and cleared it with your office.

thanks.

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