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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Natural Resources
(AC-NR)**

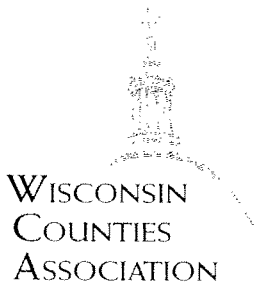
COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (Sept/2010)



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MADISON, WI 53703
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www.wicounties.org

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Natural Resources

FROM: Monica Groves Batiza, Legislative Associate

DATE: June 3, 2009

SUBJECT: Support for Assembly Bill 278

The Wisconsin Counties Association (WCA) supports Assembly Bill 278 (AB 278), relating to the sale, disposal, collection, and recycling of electronic devices. We appreciate the time and effort that Representative Schaber has given to this legislation, and for the opportunity to participate in the ongoing discussions about the draft that is before you today.

When Governor Doyle created the Governor's Task Force on Waste Materials Recovery and Disposal in 2005, four of the 19 members were county waste management representatives. Over the last several years, their participation and review of the recommendations set forth in the final report ensured that Wisconsin counties' concerns and ideas were included.

Electronic waste is the fastest growing component of waste generated in the United States today. The disposal of electronic equipment at the end of its service life poses significant health hazards if not done carefully. Health hazards include calcium, lead, mercury, chromium and brominated flame retardants. In Wisconsin, an estimated 10,000 tons of computer monitors and 24,000 tons of televisions were land filled in 2002. County solid waste employees have been concerned about these issues for some time and have organized educational opportunities for their members. In addition, they strongly supported this legislation last session.

Thank you for considering my comments. I would be happy to answer any questions that you might have.





WASTE MANAGEMENT

W132 N10487 Grant Road
Germantown, Wisconsin 53022

June 3, 2009

TO: Representative Spencer Black, Chairman and the Members of
the Assembly Committee on Natural Resources

FR: Lynn Morgan and Greg Hubbard on behalf of Waste Management

IN FAVOR OF AB 278 and ELECTRONICS RECYCLING

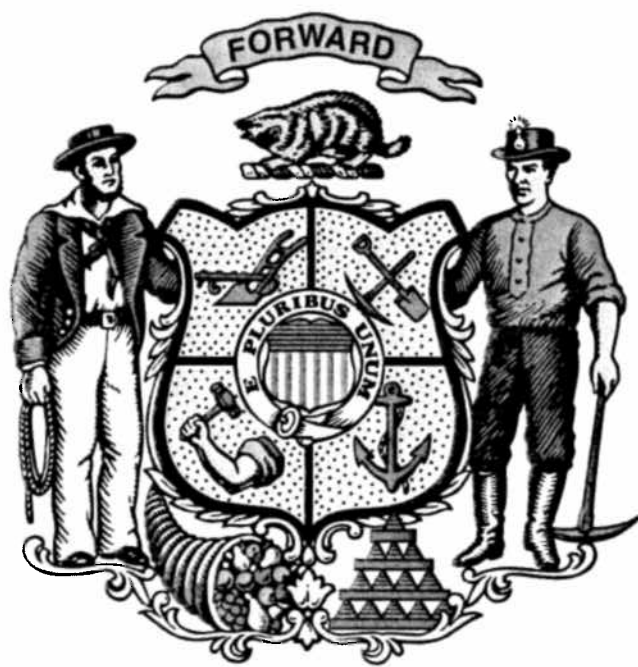
On behalf of Waste Management, thank you for considering this testimony in favor of creation of a statewide electronics recycling program. Waste Management, through its subsidiary WM Recycle America, collects and recycles electronics throughout the United States. WM Recycle America has recycled millions of discarded electronic devices during the last 10 years; we recycled more than 10 million pounds in Minnesota alone during 2008, for example. In Wisconsin, citizens can bring used electronics to our recycling depots in Chippewa Falls, Janesville, Madison, Menasha, Osceola and Superior, or use our mail-in service.

These services are popular, but only begin to meet residents' need to recycle discarded electronics. We estimate Wisconsin citizens will recycle about 35 million pounds of electronics in the first year of the program if recycling is free and convenient, based on experience in other states.

Among the 18 states that have enacted e-cycling laws, there are a variety of successful approaches to organizing and funding these programs. Whichever model the state pursues, our interest is in ensuring that recyclers operate in a competitive and sustainable marketplace in which they are required to meet rigorous environmental and worker safety standards. We appreciate the efforts Rep. Penny Bernard Schaber has made to ensure those interests are met in AB 278. Among other key provisions, AB 278 will:

- Restrict the export of recycled electronics to nations where the safety of workers handling the devices is not assured;
- Prevent the use of prisoners to dismantle electronic discards;
- Protect landfill workers from unnecessary exposure to wastes to retrieve electronics that are not recycled by citizens;
- Stabilize demand for electronics by limiting manufacturers' banking of credits; and
- Allow recyclers to charge fees to consumers if the supply of electronics exceeds the demand that can be accommodated at no charge.

WM Recycle America stands ready to assist your committee and the state of Wisconsin in developing a robust electronics-recycling infrastructure that will recapture the energy and resources locked in discarded TVs, computers and other electronic devices. Thank you.





122 State St. Ste. 310
Madison, WI 53703
www.WisconsinEnvironment.org

Assembly Committee on Natural Resources

Chair Rep. Spencer Black

Room 210 North
State Capitol
P.O. Box 8952
Madison, WI 53708

June 3, 2009

Dear Rep. Black and Committee members,

On behalf of Wisconsin Environment, and our members and activists, I would like to thank you for the opportunity to voice our strong support for Assembly Bill 278.

We all know recycling is important. Every day, most of us recycle a can, bottle or newspaper. But what the heck do you do with that old TV or computer? Unfortunately, thousands of televisions, computers and other electronic devices end up in landfills every year. This equipment contains toxic chemicals like lead, mercury and cadmium that can pollute our drinking water and threaten public health, as well as valuable materials that can be re-used in new products.



Thousands dropped off e-waste in May at the Alliant Energy Center

Right now we have an extremely limited patchwork of public and private programs that cannot deal with the growing problem of electronic waste. Recently, Wisconsin Environment completed a county by county survey to assess current recycling programs. The results are striking. Not only is electronic waste recycling extremely limited, and the potential for cuts to the state's Clean Sweep program have had local officials extremely worried.

Our survey found that:

- Only 25% of Wisconsin counties offer year-round electronic waste recycling;
- E-waste recycling is particularly limited in rural communities. For instance, residents of Ashland County that live outside of the city are advised to take e-waste to Duluth, MN. This means that if you live in Ashland County, recycling one television requires a 4-5 hour round trip, costing \$40-\$50 with the disposal fee and gas;
- E-waste recycling is limited in some urban areas as well. Kenosha County officials recommended seeking a recycler in Milwaukee;
- County officials confirmed that thousands of televisions and computers are ending up in landfills;
- County officials expressed significant concern that budget cuts to the state's Clean Sweep program would force them to cancel current recycling programs.



Wisconsin Environment staff and volunteers helped unload equipment at Memorial High event.

Because recycling is so limited, citizens end up stockpiling electronic devices in their basements and garages. In May, two one-day recycling events in Madison showed this. At the Alliant Center, six thousand cars dropped off e-waste, causing a traffic jam, and filling the parking lot. One week later, thousands more dropped off e-waste at an event at Memorial High School.

When it comes to recycling, Wisconsin has always been a leader. Assembly Bill 278 provides us with an opportunity to update our recycling program for the products we use, prevent harmful materials from

ending up in landfills, and re-use valuable materials to manufacture new products. It serves the public interest by requiring electronic manufacturers to fund the program, and it has been shown to be successful in other states.

Wisconsin Environment strongly supports Assembly Bill 278 and encourages your support.

Sincerely,

Dan Kohler

Wisconsin Environment Director



It's time to update Wisconsin's recycling programs.



Maycroft, John

From: Anderson, John
Sent: Friday, June 05, 2009 10:14 AM
To: Maycroft, John
Subject: RE: E-waste

We do not. Our basic response is, in Minnesota, manufacturers reached their 60% target within months, then didn't have to recycle the rest of the year. 80% will work. DNR will report annually to the legislature on changes they'd like to see. This is an area they will monitor closely to make certain the target meet the capacity of manufacturers.

From: Maycroft, John
Sent: Friday, June 05, 2009 10:08 AM
To: Anderson, John
Subject: E-waste

Hi John,

Do you have a similar memo regarding the 80% standard and the Tom Springer's position?

John Maycroft
Office of Rep. Spencer Black
(608) 266-7521



Maycroft, John

From: Anderson, John
Sent: Tuesday, June 09, 2009 1:39 PM
To: Maycroft, John
Cc: Wilson, Stephanie; Bier, Beth
Subject: RE: Huebsch Amendment to AB 278

Mark considered these three items in the Huebsch amendment and picked one to introduce himself. This is Senate Amendment 1 to SSA 1 to SB 107.

The one he offered provides the appeals process, minus the provision that would not allow the manufacturer the ability to appeal the DNRs decision. Mark wants the manufacturer to be able to appeal the decision. (Sentence beginning on line 16 page 2)

Miller does NOT support delaying the shortfall fee.

Miller does NOT support #13. Unnecessary. The DNR will be considering how to make changes to improve the effectiveness of the program, as required under the bill.

From: Maycroft, John
Sent: Tuesday, June 09, 2009 1:26 PM
To: Anderson, John
Subject: FW: Huebsch Amendment to AB 278

Here's the draft Huebsch amendment

From: Nelson, Elise
Sent: Tuesday, June 09, 2009 9:24 AM
To: Rep.Black
Cc: Maycroft, John; Zimmerman, Terri
Subject: Huebsch Amendment to AB 278

Attached is the preliminary draft to AB 278 that Rep. Huebsch is planning to introduce in tomorrow's executive session. The drafter is currently redrafting as a /1 for formal introduction and I will have it to your office as soon as possible! I apologize for the inconvenience.

Thanks,
Elise Nelson
Office of Rep. Mike Huebsch
94th Assembly District
(608)266-0631

<< File: 09a0512P1.pdf >>



Maycroft, John

From: Meyers, Rick [rick.meyers@milwaukee.gov]
Sent: Tuesday, June 16, 2009 5:53 PM
To: Rep.Black; Rep.Danou; Rep.Molepske; Rep.Steinbrink; Rep.Hraychuck; Rep.Hebl; Rep.Mason; Rep.Milroy; Rep.Clark; Rep.OttJ; Rep.Gunderson; Rep.Huebsch; Rep.LeMahieu; Rep.Mursau; Rep.Nerison
Cc: Gonda, Jennifer
Subject: [Possible Spam] Electronics Bill SB107 / AB278
Importance: Low

Dear members of the Assembly Committee on Natural Resources,

I understand that there may be an amendment offered to the consumer electronics recycling bill that would drastically change the bill by allowing manufacturers to include what is recycled from schools towards their recycling requirements. I urge you to vote "NO" on this amendment, the "Apple amendment," as it would represent a major policy change to the original bill, reducing its effectiveness and threatening its passage. While on the surface including school electronics may sound good, the intention of the original bill is to solve the problem of consumer electronics scrap, not the discarded electronics from businesses and institutions which already are regulated. Computer sales to schools are not included in figuring a manufacturer's recycling obligation, so why would we allow counting recycled pounds of school electronics towards meeting the targeted amounts? In effect, it would lower the chance that Wisconsin residents would find the opportunity to recycle their household electronics because manufacturers such as Apple could seek their recycling pounds from schools instead. I urge you to vote "NO" on the "Apple amendment" and to pass SB107 / AB278 without any further amendments. Municipalities can not wait any longer for producer responsibility legislation on e-scrap. We need SB107 / AB278 to pass this session or our e-scrap collection infrastructure will disappear as a casualty of budget cuts. It would be a shame not to pass the bill this session because of the inclusion of a last-minute amendment when stakeholders have so thoroughly weighed in and supported the bill as it is.


Thank you for your consideration.

Rick Meyers
Recycling Specialist, City of Milwaukee Department of Public Works
841 N Broadway, Room 620
Milwaukee, WI 53202
PH: 414-286-2334
Email: rick.meyers@milwaukee.gov
www.MilwaukeeRecycles.com



Maycroft, John

From: Rep.Black
Sent: Thursday, June 18, 2009 3:15 PM
To: Maycroft, John
Subject: FW: [Possible Spam] St. Croix County Resolutions on SB107/AB278 and SB 186
Importance: Low



comm record

From: David Fodroczi [mailto:davidf@CO.Saint-Croix.WI.US]
Sent: Wednesday, June 17, 2009 3:38 PM
To: Rep.Black
Cc: Rep.Hraychuck; Sen.Harsdorf
Subject: [Possible Spam] St. Croix County Resolutions on SB107/AB278 and SB 186
Importance: Low

Dear Representative Black:

Please accept and consider the attached St. Croix County Board resolutions supporting legislation currently under consideration by your Assembly Natural Resources Committee. Both of these proposed laws would be very supportive and complementary to our County's longstanding recycling efforts. We strongly encourage your committee, the full Legislature, and the Governor to enact these bills into law.

With respect to SB107/AB278, the proposed Electronics Recycling Program, we understand that there may be some last minute attempts by vested interests to amend the bills in their favor and weaken the overall program. We strongly encourage you to enact SB107/AB278 in its current form without amendment. Based on our familiarity with the experience of our neighbors in Minnesota, there is no need for further modifications.

Thank you for your consideration of our County's needs and support.

Sincerely,

David Fodroczi, AICP
Planning & Zoning Director
St. Croix County
1101 Carmichael Road
Hudson, WI 54016
715-386-4672 Phone
715-386-4686 FAX
davidf@co.saint-croix.wi.us





Leaders in Resource Renewal

A non-profit association that provides statewide proactive leadership on waste reduction and recycling through education, advocacy, collaboration, programs and services.

Date?

Associated Recyclers of Wisconsin (AROW) Testimony in Support of AB 278

Delivered By:

Toral Jha

AROW Board of Directors – Secretary

AROW Product Stewardship Committee – Co-Chair

Chairman Black, Representative Bernard Schaber, and Members of the Committee:

On behalf of the Associated Recyclers of Wisconsin Board of Directors and the organization's Product Stewardship Committee and Hazardous and Special Waste Committee, I thank you for this opportunity to offer testimony in support of AB 278 and electronics recycling.

The Associated Recyclers of Wisconsin, or AROW, is an association representing a dynamic cross section of the recycling industry. Our members include local and state government agencies, private recycling operations, refuse haulers, landfill operators and non-profit organizations. AROW members have a long tradition of promoting effective, efficient and environmentally sound solid waste management systems and resource recovery efforts and whole heartedly support AB 278.

I would like to highlight some of the key reasons for our support:

- 1) **This legislation emerged through a well informed process.** AROW members were at the table during the development of this policy. Local governments offered data on collection weight and cost. Private recyclers offered input regarding current and future processing capacity, best management practices and reporting requirements. And other stakeholders including waste haulers, landfill operators and non-profit organizations offered input in crafting legislation that led to the right solution for Wisconsin.
- 2) **While it is critical to create the right solution for Wisconsin, this policy's consistency with legislation passed in Minnesota and other neighboring states is also important.** The Minnesota electronics recycling bill was developed based on guiding principles agreed upon by a coalition of Midwestern states. Based on successful implementation of the Minnesota law, the Illinois and Indiana legislatures recently passed bills that utilize this same model. As you are all well aware, the value of creating effective and efficient legislation is at a premium during this tough economic climate. In modeling our bill after the successful Midwestern approach, we can effectively share infrastructure development tools, such as educational and reporting resources. Furthermore, consistency among state programs reduces the burden on the businesses, manufacturers and recyclers who will operate programs across state boundaries.
- 3) **Our members value the creation of a mandatory electronics recovery program to ensure consistent and widespread electronics recycling programs throughout the state.** This bill creates a level playing field for retailers, manufacturers and recyclers of electronics. Also, voluntary programs do not provide the same assurance that rural and often underserved portions of the state are served. Through a mandatory solution, state and local governments can work to promote a statewide network of collection opportunities instead of trying to offer piece meal solutions on an infrequent basis to their constituents.

While our local governments have historically borne the burden of managing our waste at the end of its useful life, we cannot expect them to maintain this same level of involvement as increasingly toxic and complex materials enter into our places of work, our homes and eventually our trash cans. We also cannot



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expect local governments to continue to subsidize the expense of electronics recycling in a time when municipal budgets are increasingly strained. Moreover, communities currently unable to offer electronics recycling programs are spending valuable tax dollars clearing road sides, wooded areas, lakes and rivers from illegal dumping of these toxic gadgets.

Without responsibility for the proper end-of-life management of their products, manufacturers have had little reason to design their products in a way that would minimize these costs. When manufacturers are held responsible for recycling their products they will have an incentive to design products that are less toxic, easier to disassemble, and made of recycled content.

- 4) **Finally, AROW members champion this policy for its promise to create a broad demand for recycling services throughout the state.** The creation of jobs coupled with the recovery of valuable resources such as copper, steel and precious metals from electronics is precisely the type of sustainable infusion necessary to reenergize Wisconsin's economy.

Thank you for your time and consideration for this bill. We encourage its swift passage so that Wisconsin's recycling professionals can begin working to ensure its success.



TALKING POINTS

Wisconsin Electronic Waste Recycling Helping Wisconsin Schools Amendment to AB-278 \ SB-107

Date?

- **Simple Amendment:** Allow electronic waste generated from a Wisconsin K-12 school to count toward a manufacturer's recycling target.
- **Supported by Wisconsin Education:**
 - School Administrators' Alliance of Wisconsin
 - Wisconsin Association of School Boards
 - Milwaukee Public Schools
- **14 Other States Doing it - Let's be Consistent \ Uniform:** About 35 states have e-Waste Recycling Laws, and as of today 14 states have either passed this amendment or are about to. Wisconsin should follow their lead and further protect the environment.
 - **Current Law\Passed:** California, Hawaii, Indiana, New Jersey, New York City, Rhode Island Vermont and Washington have all passed e-Waste Laws with this amendment - All are reaping the benefits to our environment.
 - **About to Pass into Law:** Massachusetts, New York State and Vermont are about to pass e-Waste Laws that include this amendment.
- **Create Cost Savings for Wisconsin Schools:** This amendment would create a market for electronic waste generated by Wisconsin schools, and thereby reduce or completely eliminate the cost of recycling for Wisconsin's K-12 Schools.
- **Wisconsin's 2009-11 Budget will cut Funding to Schools \ Legislature Should Provide Cost Efficiencies and Savings Opportunities:** The current 2009-2011 biennial budget, as proposed, will cut funding to our schools. As Wisconsin's educational system strives to be more efficient to implement these funding reductions during this national recession - this simple amendment should allow Wisconsin Schools to see an immediate savings on electronic waste recycling efforts.
- **Businesses Regularly Donate Old Electronics to Schools.** Schools regularly get large donations of outdated electronics equipment, which has a very limited life in the classroom and can be costly to recycle. What was once a benefit can quickly become a cost liability for our Schools and the Wisconsin taxpayer.
- **Incentive for Schools to Recycle Responsibly \ Yes, Schools are Already Required by Federal Law to Recycle - But can they Afford to Recycle Responsibly?**
This simple amendment would ensure that schools recycle responsibly. Schools often will seek the most cost effective disposal method to preserve scarce education dollars for teaching. This electronic equipment has the potential to end up overseas where it is not treated appropriately. If schools are not part of this program, the unintended consequence will be an increase with improperly disposed electronics.

Following the Lead of 14 Other States - Create Consistency and Uniformity

Help Wisconsin's Schools - Help Wisconsin's Environment

TALKING POINTS

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- **Budget will cut Funding to Schools \ Legislature should provide cost efficiency opportunities:** The current 2009-2011 biennial budget, as proposed, will cut funding to our schools. As Wisconsin's educational system strives to be more efficient to implement these funding reductions during this national recession – this simple amendment should allow Wisconsin Schools to see an immediate savings on electronic waste recycling efforts.
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Let's do the Right Thing Here!

Huebsch draft ^{not yet}
check w/ office, circulate? → send to Rachel

Hubler's ^{waste}
get copy of Steiny's. send to
check w/ Miller on arguments

prevents household recycling
Apple has years going
no trouble finding Apple waste

q's for Rachel
need Ass. version of SA1
heads up on amendment
Seen Hubler's amendment?



AB 278 ?
Date ?

CALL NO CALL

DATE _____ TIME _____ INITIALS _____

NAME John Anderson

ADDRESS _____

CITY, ST, ZIP _____

TELEPHONE NUMBER 69170

REGARDING (BE SPECIFIC)

get Assembly version of E waste amendment
concur w/ Senate
Apple
Expands the scope of the bill, nongermane
is a household bill



from Tom Springer

Date?

Recommended amendments for AB 278:

ADD

1) Appeal process:

Not later than sixty (60) days after the date a manufacturer receives notice that a shortfall fee will be imposed, the manufacturer may petition the Wisconsin Department of Natural Resources for relief from the annual shortfall fee imposed under section 6(4) upon showing of good cause. In determining whether to grant a petition for relief under this section, the Wisconsin Department of Natural Resources shall determine whether the manufacturer has made good faith progress to achieve substantial compliance within this article. A determination by the Wisconsin Department of Natural Resources is not subject to appeal by the manufacturer.

AMEND

2) Review of the formula:

Page 25, Amend § 6 (10)(c): line 25, insert
...or if a substantial number of manufacturers cannot meet their obligations in a given year,

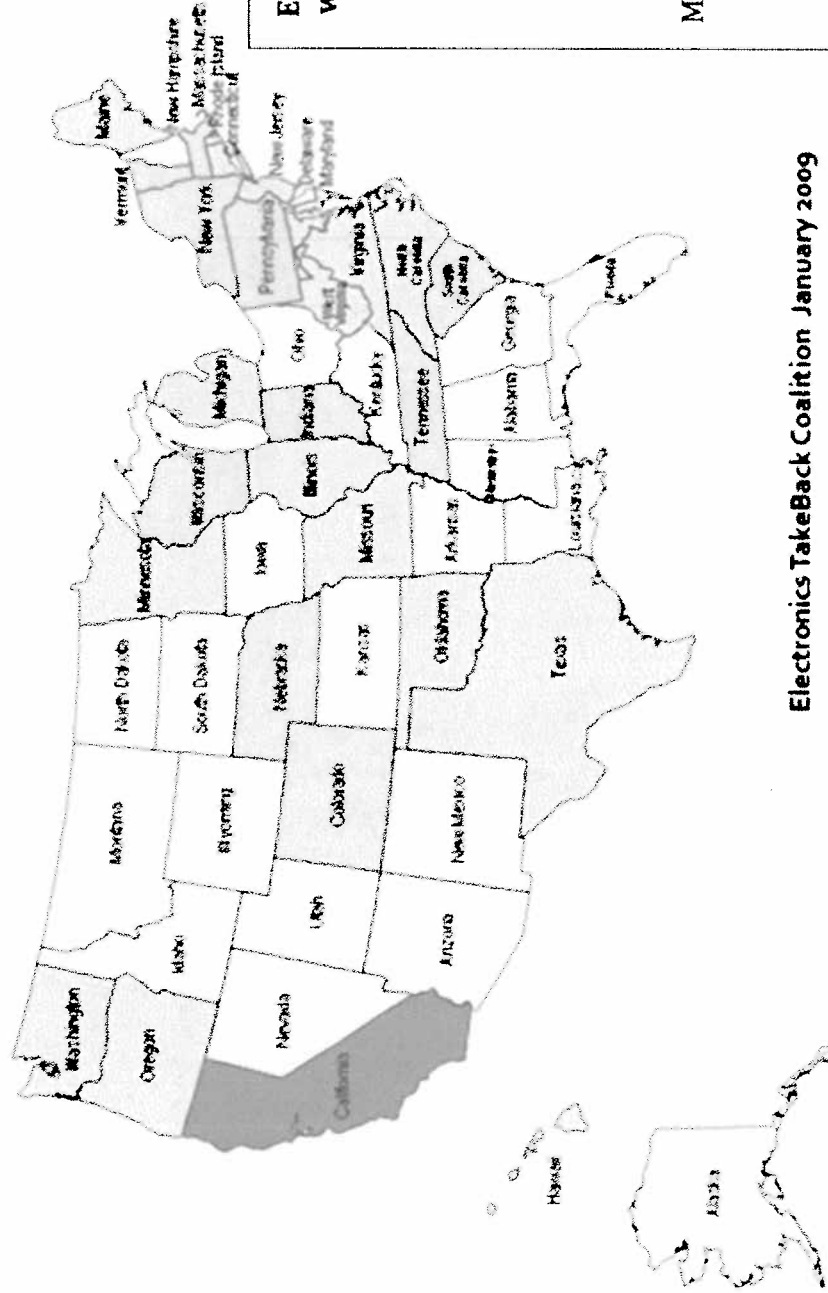
AMEND

3) 1 year penalty delay:

(Pp 13, lines 9-10) Amend § 6 (4)(c): (c) Annual shortfall fee in ~~2010-2011~~. The annual shortfall fee to be paid in ~~2010-2011~~ by a manufacturer is calculated as follows.



Existing State E-Waste Laws and Bills Expected to be Introduced in 2009



- E-Waste Laws That Help Schools**
- California
 - Hawaii
 - Indiana
 - Massachusetts*
 - New Jersey
 - New York City
 - New York*
 - Rhode Island
 - Vermont*
 - Washington

- E-Waste Laws with Printers**
- Connecticut
 - Hawaii
 - Illinois
 - Maine*
 - Massachusetts*
 - Michigan
 - New York*
 - New York City
 - Vermont*
 - Wisconsin*

Electronics TakeBack Coalition January 2009

- ◆ States with Producer Responsibility Laws
- ◆ States with ARF consumer Fees Laws
- States where bill is expected in 2009

* States with an asterisk (*) have active legislation pending that includes printers and/or the K-12 Education proposal



8 Reasons Why the Minnesota Approach is not Valid for Wisconsin

1. **Performance mandates – backed by penalties – raise significant legal and constitutional concerns.** These devices are private property: manufacturers cannot compel private citizens to turn them in at all, let alone according to some statutory schedule. Yet, manufacturers are exposed to severe penalties if we are unable to satisfy excessive performance mandates. Penalizing manufacturers for the actions (or inactions) of others raises significant legal and constitutional concerns.

In 2008, New York City Mayor Michael Bloomberg vetoed a second electronics recycling bill that would have imposed Minnesota-style performance mandates and penalties on manufacturers. The Mayor said the approach was “totally illegal” and “violates... federal laws on interstate commerce.” (Though his veto was subsequently overridden, the Mayor has vowed not to enforce these mandates.)

2. **The Minnesota performance mandates are not substantiated in Minnesota.** Minnesota has generated a single year of data from its new statewide program. The data is skewed and anecdotal, and there is no indication that the recycling rate in Minnesota is sustainable over the long term. Because of the uncertainties and estimates involved in launching a new statewide program, manufacturers ultimately recycled over twice their collective annual obligation in year one.

Proponents of the Minnesota approach rely on this single year of program results to claim that this proves that these numbers can be achieved every year in any jurisdiction. The first year of the Minnesota program actually reflects almost two full years of recycling obligations, and in no way proves that such high numbers are achievable over time.

3. **The Minnesota performance mandates are not substantiated in Wisconsin.** Minnesota’s law is unique among the 18 states (plus the City of New York) that have enacted electronics recycling laws. There is no evidence, let alone any hard data, that the Minnesota performance mandates are achievable in Wisconsin on a consistent basis or even in any given year. Imposing an arbitrary, punitive and unproven rate from a distant state is unsupported and inadvisable.
4. **Minnesota already has a robust electronics recycling infrastructure.** Hennepin County, which encompasses Minneapolis and 45 surrounding municipalities, has continuously operated an electronics recycling program since 1992. In 2005, the program collected over 145,000 units for a total of almost 4 million pounds. When Minnesota’s producer responsibility requirements took effect in 2007, Hennepin County continued to operate its program and manufacturers were able to purchase credits to help them meet their obligations. Wisconsin’s existing electronics recycling infrastructure cannot currently provide the same relative number of pounds to help manufacturers satisfy these obligations, making us more likely to face penalties.

5. **Government cannot dictate markets.** It is impossible for government to know that a given performance mandate, set before the program even starts and in the absence of valid data, can be achieved at all, let alone on a consistent basis. Government is essentially attempting to dictate what the electronics recycling market will bear in the future. Recycling rates are determined by what consumers choose to enter into the marketplace; they are not controlled by manufacturers and cannot be prescribed by government, especially in advance.

For example, the non-profit Container Recycling Institute reports that U.S. aluminum can recycling rates have fluctuated in a range between from 45% and 65% from 1986 to the present. For plastic bottles, the rate has gone from less than 20% to over 37% and back down to less than 25% over the course of 20 years. (Please see: <http://www.container-recycling.org/allrate/rebrates-3mats.htm>) The rates are dependent upon consumer behavior.

6. **Excessive performance mandates are punitive and artificially inflate costs.** Since manufacturers have minimal direct distribution capabilities, we must rely on third parties to collect used devices. Arbitrary program measures, backed by the threat of steep penalties, make us a captive market for those third party business interests. Experience in other states already demonstrates that non-market approaches result in manufacturers paying artificially inflated costs that must either be passed on to consumers or result in forced job cuts.

While the weight recycled in Minnesota in year one was high (almost 34 million pounds), so were the costs. Manufacturers spent an estimated \$9.5 to \$10 million complying in year one (including annual registration fees). These costs are excessive, particularly in these difficult economic times when our companies have already laid off tens of thousands of employees.

7. **There is no direct correlation between sales rates and recycling rates.** While Minnesota bases its mandates on current sales volumes, there is no direct correlation between the sale of a new covered unit and the availability of an old unit for recycling. Surveys of U.S. consumers demonstrate a clear trend towards more electronic devices in use per household. This means that consumers are buying more devices than they are generating for recycling, as older devices are simply moved into another room for continued use. Consequently, basing overall manufacturer recycling rates on a percentage of new sales is fallacious.
8. **The Minnesota mandates do not account for clear and expected changes in the recycling stream over time.** Minnesota bases its obligations on the sale of video display devices, almost all of which are already lighter flat panel units. Most of the devices currently being generated for recycling by households are older, heavier cathode ray tubes (CRTs); at present, this allows manufacturers to more readily meet these punitive, weight-based mandates. As the available units in the recycling stream gradually switch over from CRTs to flat panels, it will become harder and more costly for manufacturers to satisfy these draconian mandates, meaning that we (and, by extension, consumers) will be exposed to ever-higher costs and penalties.