S T A T E O F N E W Y O R K

6739

2009-2010 Regular Sessions

I N A S S E M B L Y

March 11, 2009

Introduced by M. of A. KELLNER -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the recycling, reuse and safe handling of electronic equipment sold in the state of New York and requiring certain retail dealers to participate in recycling program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "electronic equipment retailer recycling act".

S 2. Article 27 of the environmental conservation law is amended by adding a new title 26 to read as follows:

TITLE 26

ELECTRONIC EQUIPMENT RECYCLING

SECTION 27-2601. DEFINITIONS.
27-2603. RETAIL COLLECTION AND NOTIFICATION.
27-2605. ELECTRONIC WASTE MANAGEMENT PLAN.
27-2607. LABELING.
27-2609. DISPOSAL BAN.
27-2611. ENFORCEMENT.
27-2613. PENALTIES.
27-2615. REPORTING REQUIREMENTS.
27-2617. PREEMPTION.
27-2619. CONFIDENTIAL INFORMATION AND TRADE SECRETS.
27-2621. SEVERABILITY.

S 27-2601. DEFINITIONS.

AS USED IN THIS TITLE: 1. "CATHODE RAY TUBE" MEANS A VACUUM TUBE OR PICTURE TUBE USED TO CONVERT AN ELECTRONIC SIGNAL INTO A VISUAL IMAGE.

2. "COMPUTER" MEANS AN ELECTRONIC, MAGNETIC, OPTICAL, ELECTROCHEMICAL OR OTHER HIGH-SPEED DATA PROCESSING DEVICE PERFORMING A LOGICAL, ARITHMETIC OR STORAGE FUNCTION, AND MAY INCLUDE BOTH A COMPUTER CENTRAL PROC-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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ESSING UNIT AND A MONITOR; BUT SUCH TERM SHALL NOT INCLUDE AN AUTOMATED TYPEWRITER OR TYPESETTER, A PORTABLE HAND-HELD CALCULATOR, A PORTABLE DIGITAL ASSISTANT, OR OTHER SIMILAR DEVICE.

3. "CONSUMER" MEANS A PERSON WHO OWNS OR USES COVERED ELECTRONIC EQUIPMENT, INCLUDING BUT NOT LIMITED TO AN INDIVIDUAL, A BUSINESS, CORPORATION, LIMITED PARTNERSHIP, NOT-FOR-PROFIT ORGANIZATION, OR GOVERNMENTAL ENTITY, BUT DOES NOT INCLUDE AN ENTITY INVOLVED IN A WHOLESALE TRANSACTION BETWEEN A DISTRIBUTOR AND RETAILER.

4. "COVERED ELECTRONIC EQUIPMENT" MEANS ANY COMPUTER CENTRAL PROCESSING UNIT; CATHODE RAY TUBE; CATHODE RAY TUBE DEVICE; KEYBOARD; ELECTRONIC MOUSE OR SIMILAR POINTING DEVICE; TELEVISION; PRINTER; COMPUTER MONITOR, INCLUDING BUT NOT LIMITED TO LIQUID CRYSTAL DISPLAYS (LCD) AND PLASMA SCREENS, OR SIMILAR VIDEO DISPLAY DEVICE WITH A SCREEN THAT IS GREATER THAN FOUR INCHES MEASURED DIAGONALLY AND CONTAINS ONE OR MORE CIRCUIT BOARDS; A LAPTOP OR OTHER PORTABLE COMPUTER; OR A PORTABLE DIGITAL MUSIC PLAYER THAT HAS MEMORY CAPABILITY AND IS BATTERY-POWERED; ANY DEVICE THAT HAS INTERNAL MEMORY AND CAN CONNECT TO VIDEO; OR ANY DEVICE INCLUDING A HARD DRIVE. "COVERED ELECTRONIC EQUIPMENT" DOES NOT INCLUDE ANY MOTOR VEHICLE; WIRELESS TELEPHONE; HOUSEHOLD APPLIANCES SUCH AS CLOTHES WASHERS, CLOTHES DRYERS, REFRIGERATORS, FREEZERS, MICROWAVE OVENS, OVENS, RANGES OR DISHWASHERS; EQUIPMENT THAT IS FUNCTIONALLY OR PHYSICALLY PART OF A LARGER PIECE OF EQUIPMENT INTENDED FOR USE IN AN INDUSTRIAL, RESEARCH AND DEVELOPMENT OR COMMERCIAL SETTING; SECURITY OR ANTI-TERRORISM EQUIPMENT THAT UTILIZES A CATHODE RAY TUBE; COMMERCIAL MEDICAL EQUIPMENT THAT CONTAINS WITHIN IT A CATHODE RAY TUBE, A CATHODE RAY TUBE DEVICE, A FLAT PANEL DISPLAY OR SIMILAR VIDEO DISPLAY DEVICE, AND IS NOT SEPARATE FROM THE LARGER PIECE OF EQUIPMENT; OR OTHER MEDICAL DEVICES AS THAT TERM IS DEFINED UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

5. "ELECTRONIC RECYCLER" MEANS A PERSON WHO ENGAGES IN THE MANUAL OR MECHANICAL SEPARATION OF COVERED ELECTRONIC EQUIPMENT TO RECOVER COMPONENTS AND COMMODITIES CONTAINED THEREIN FOR THE PURPOSE OF REUSE OR RECYCLING OR A PERSON WHO CHANGES THE PHYSICAL OR CHEMICAL COMPOSITION OF COVERED ELECTRONIC EQUIPMENT FOR PURPOSES OF SEGREGATING COMPONENTS, FOR PURPOSES OF RECYCLING THOSE COMPONENTS AND WHO ARRANGES FOR THE TRANSPORT OF THOSE COMPONENTS.

6. "ELECTRONIC WASTE" MEANS COVERED ELECTRONIC EQUIPMENT THAT HAS BEEN DISCARDED OR IS NO LONGER WANTED BY ITS OWNER, OR FOR ANY OTHER REASON ENTERS THE WASTE COLLECTION, RECOVERY, TREATMENT, PROCESSING, OR RECYCLING SYSTEM.

7. "LABEL" MEANS A MARKER ON THE SURFACE OF COVERED ELECTRONIC EQUIPMENT CONVEYING INFORMATION; FOR THE PURPOSES OF THIS TITLE, LABELS MUST BE PERMANENT AND CAN BE ATTACHED, PRINTED, ENGRAVED OR INCORPORATED IN ANY OTHER PERMANENT WAY THAT IS OBVIOUS AND VISIBLE TO USERS OF THE PRODUCT.

8. "MANUFACTURER" MEANS A PERSON WHO: (A) ASSEMBLES OR SUBSTANTIALLY ASSEMBLES, OR HAS ASSEMBLED OR SUBSTANTIALLY ASSEMBLED, COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; (B) MANUFACTURES OR HAS MANUFACTURED COVERED ELECTRONIC EQUIPMENT UNDER ITS OWN BRAND NAME OR UNDER ANY OTHER BRAND NAME FOR SALE IN THE STATE; (C) SELLS OR HAS SOLD, UNDER ITS OWN BRAND NAME, COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (D) OWNS A BRAND NAME THAT IT LICENSES OR HAS LICENSED TO ANOTHER PERSON FOR USE ON COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (E) IMPORTS OR HAS IMPORTED COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; OR (F) MANUFACTURES OR HAS MANUFACTURED COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE WITHOUT AFFIXING A BRAND NAME.

9. "MANUFACTURER'S BRANDS" MEANS A MANUFACTURER'S NAME, BRAND NAME OR BRAND LABEL, AND ALL MANUFACTURER'S NAMES, BRAND NAMES AND BRAND LABELS FOR WHICH THE MANUFACTURER HAS LEGAL RIGHT OR INTEREST, INCLUDING THOSE NAMES, BRAND NAMES, AND BRAND LABELS OF COMPANIES THAT HAVE BEEN ACQUIRED BY THE MANUFACTURER OR IN WHICH THE MANUFACTURER ASSERTS A LEGAL INTEREST SUCH AS TRADEMARK OR PATENT.

10. "MONITOR" MEANS A SEPARATE VISUAL DISPLAY COMPONENT OF A COMPUTER, WHETHER SOLD SEPARATELY OR TOGETHER WITH A COMPUTER CENTRAL PROCESSING UNIT/COMPUTER BOX, AND INCLUDES A CATHODE RAY TUBE, LIQUID CRYSTAL DISPLAY, GAS PLASMA, DIGITAL LIGHT PROCESSING OR OTHER IMAGE PROJECTION TECHNOLOGY, GREATER THAN FOUR INCHES WHEN MEASURED DIAGONALLY, AND ITS CASE, INTERIOR WIRES AND CIRCUITRY, CABLE TO THE CENTRAL PROCESSING UNIT, AND POWER CORD.

11. "ORPHAN WASTE" MEANS COVERED ELECTRONIC WASTE, THE MANUFACTURER OF WHICH CANNOT BE IDENTIFIED OR IS NO LONGER IN BUSINESS AND FOR WHICH NO SUCCESSOR IN INTEREST CAN BE IDENTIFIED.

12. "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP, COMPANY, CORPORATION, NOT-FOR-PROFIT CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, FIRM, ORGANIZATION, OR ANY OTHER GROUP OF INDIVIDUALS, OR ANY OFFICER OR EMPLOYEE OR AGENT THEREOF.

13. "PORTABLE COMPUTER" MEANS A COMPUTER AND VIDEO DISPLAY GREATER THAN FOUR INCHES IN SIZE THAT CAN BE CARRIED AS ONE UNIT BY AN INDIVIDUAL.

14. "RECYCLE" MEANS TO USE THE MATERIALS CONTAINED IN COVERED ELECTRONIC EQUIPMENT OR COMPONENTS AS RAW MATERIALS FOR NEW PRODUCTS OR COMPONENTS, BUT NOT FOR ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF COMBUSTION, GASIFICATION, PYROLYSIS OR OTHER MEANS.

15. "RETAILER" MEANS A PERSON WHO SELLS COVERED ELECTRONIC EQUIPMENT TO A CONSUMER IN THE STATE THROUGH ANY MEANS, INCLUDING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES OUTLETS, CATALOGS OR THE INTERNET, OR ANY ELECTRONIC MEANS, AND WHO OPERATES ONE OR MORE RETAIL STORES IN THE STATE THAT CONTAIN SEVENTY-FIVE THOUSAND SQUARE FEET OR MORE OF ACTIVE RETAIL FLOOR SPACE FOR THE SALE OF RETAIL GOODS, SUCH AS A "BIG BOX" RETAIL STORE OR WAREHOUSE CLUB; PROVIDED THAT SUCH TERM SHALL NOT INCLUDE ANY RETAIL STORE FOR WHICH PHARMACY SALES COMPRISE FIFTY PERCENT OR MORE OF STORE SALES.

16. "REUSE" MEANS ANY OPERATION BY WHICH COVERED ELECTRONIC EQUIPMENT OR COMPONENTS ARE USED FOR THE SAME PURPOSE FOR WHICH THEY WERE CONCEIVED, INCLUDING THE CONTINUED USE OF WHOLE SYSTEMS OR COMPONENTS.

17. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE OR THE RIGHT TO USE, BY LEASE OR SALES CONTRACT, FROM A MANUFACTURER OR RETAILER TO A CONSUMER, INCLUDING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES OUTLETS, CATALOGS, THE INTERNET, OR ANY ELECTRONIC MEANS; THIS INCLUDES TRANSFER OF NEW PRODUCTS OR USED PRODUCTS THAT MAY HAVE BEEN REFURBISHED BY THEIR MANUFACTURER OR MANUFACTURER-APPROVED PARTY AND THAT ARE OFFERED FOR SALE BY A MANUFACTURER OR RETAILER, BUT DOES NOT INCLUDE CONSUMER-TO-CONSUMER SECOND-HAND TRANSFER.

18. "TELEVISION" MEANS A DISPLAY SYSTEM CONTAINING A CATHODE RAY TUBE OR ANY OTHER TYPE OF DISPLAY PRIMARILY INTENDED TO RECEIVE VIDEO PROGRAMMING VIA BROADCAST, CABLE OR SATELLITE TRANSMISSION, HAVING A VIEWABLE AREA GREATER THAN FOUR INCHES WHEN MEASURED DIAGONALLY.

S 27-2603. RETAIL COLLECTION AND NOTIFICATION.

1. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE OR ONE HUNDRED EIGHTY DAYS AFTER AN ELECTRONIC WASTE MANAGEMENT PLAN IS APPROVED BY THE

DEPARTMENT, WHICHEVER DATE IS LATER, EACH RETAILER OF COVERED ELECTRONIC EQUIPMENT WHO DOES BUSINESS IN THE STATE OF NEW YORK SHALL ACCEPT FROM CONSUMERS, AT ANY TIME DURING NORMAL BUSINESS HOURS AND WITHOUT CHARGE, COVERED ELECTRONIC EQUIPMENT OF ALL BRANDS THAT THE RETAILER OFFERS FOR SALE FOR COLLECTION, HANDLING AND RECYCLING OR REUSE OF SUCH EQUIPMENT, REGARDLESS OF WHETHER THE COVERED ELECTRONIC EQUIPMENT WAS OBTAINED FROM THE RETAILER. CONSUMERS RETURNING COVERED ELECTRONIC EQUIPMENT PURSUANT TO THE TERMS OF THIS SECTION SHALL NOT BE REQUIRED TO MAKE A PURCHASE FROM THE RETAILER.

2. A. RETAILERS SHALL CONSPICUOUSLY POST AND MAINTAIN, AT OR NEAR THE POINT OF ENTRY TO THE PLACE OF BUSINESS, A LEGIBLE SIGN, NOT LESS THAN EIGHT AND ONE-HALF INCHES BY ELEVEN INCHES IN SIZE, STATING THAT USED COVERED ELECTRONIC EQUIPMENT OF THE BRANDS OFFERED FOR SALE BY THE RETAILER MAY NOT ENTER THE SOLID WASTE STREAM, AND THAT THE RETAIL ESTABLISHMENT IS A COLLECTION SITE FOR RECYCLING SUCH EQUIPMENT. SUCH SIGN SHALL STATE THE FOLLOWING IN LETTERS AT LEAST ONE-INCH IN HEIGHT: "IT IS ILLEGAL TO DISPOSE OF CERTAIN ELECTRONIC EQUIPMENT IN THE STATE OF NEW YORK AS SOLID WASTE. WE ACCEPT USED ELECTRONIC EQUIPMENT OF THE BRANDS WE SELL FOR RETURN TO THE MANUFACTURER OR AN ELECTRONICS RECYCLER."

B. RETAILERS THAT SELL COVERED ELECTRONIC EQUIPMENT TO CONSUMERS IN THE STATE THROUGH NON-RETAIL OUTLETS, INCLUDING THROUGH CATALOGS, OR BY MAIL, TELEPHONE OR THE INTERNET, SHALL PROVIDE, AT THE TIME OF PURCHASE OR DELIVERY TO THE CONSUMER, NOTICE OF AN OPPORTUNITY TO RETURN USED COVERED ELECTRONIC EQUIPMENT AT NO COST TO THE CONSUMER FOR REUSE OR RECYCLING.

C. RETAILERS SHALL CONSPICUOUSLY MAINTAIN, AT A LOCATION WITHIN THE RETAIL ESTABLISHMENT CONVENIENT FOR USE BY CONSUMERS, COLLECTION BOXES OR OTHER SUITABLE RECEPTACLES, SUPPLIED BY THE RETAILER, INTO WHICH CONSUMERS MAY DEPOSIT COVERED ELECTRONIC EQUIPMENT.

3. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE EACH MANUFACTURER OF COVERED ELECTRONIC EQUIPMENT SHALL ACCEPT FOR COLLECTION, HANDLING AND RECYCLING OR REUSE COVERED ELECTRONIC EQUIPMENT RETURNED TO IT BY RETAILERS DOING BUSINESS IN THE STATE. NO MANUFACTURER SHALL BE RESPONSIBLE FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT OF A DIFFERENT TYPE OR BRAND THAN THE COVERED ELECTRONIC EQUIPMENT THAT MANUFACTURER PRODUCES OR PRODUCED.

S 27-2605. ELECTRONIC WASTE MANAGEMENT PLAN.

1. THE DEPARTMENT SHALL ADOPT RULES AND REGULATIONS PROMULGATING RECYCLING COLLECTION STANDARDS FOR COVERED ELECTRONIC EQUIPMENT. SUCH STANDARDS SHALL BE DETERMINED BASED ON THE AVERAGE ANNUAL SALES IN THIS STATE BY THE RETAILER OF THE COVERED ELECTRONIC EQUIPMENT, REPORTED BY WEIGHT, DURING THE PREVIOUS THREE CALENDAR YEARS; BY JULY FIRST, TWO THOUSAND FIFTEEN, THE MINIMUM COLLECTION STANDARD IS TWENTY-FIVE PERCENT AND BY JULY FIRST, TWO THOUSAND EIGHTEEN, THE MINIMUM COLLECTION STANDARD IS FORTY-FIVE PERCENT. THE COMMISSIONER MAY GRANT A WAIVER, IN WHOLE OR IN PART, FROM THE COLLECTION STANDARDS AND ANY RESULTING FINES OR PENALTIES WHERE A RETAILER HAS DEMONSTRATED TO THE COMMISSIONER'S SATISFACTION THAT SUCH MINIMUM COLLECTION STANDARDS COULD NOT BE MET DESPITE THE BEST EFFORTS OF THE RETAILER.

2. NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, EACH RETAILER SHALL DEVELOP AND SUBMIT TO THE DEPARTMENT AN ELECTRONIC WASTE MANAGEMENT PLAN FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT, TOGETHER WITH A REGISTRATION FEE OF FIVE THOUSAND DOLLARS. ANY RETAILER COMMENCING BUSINESS IN THIS STATE ON OR AFTER JULY FIRST, TWO THOUSAND ELEVEN SHALL SUBMIT TO THE DEPARTMENT AN ELECTRONIC

WASTE MANAGEMENT PLAN FOR THE COLLECTION, HANDLING, AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT, TOGETHER WITH THE REGISTRATION FEE, PRIOR TO SELLING ANY COVERED ELECTRONIC EQUIPMENT IN THE STATE. THE RETAILER SHALL NOT IMPOSE A FEE ON CONSUMERS FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT.

3. THE ELECTRONIC WASTE MANAGEMENT PLAN SHALL INCLUDE, AT A MINIMUM:

A. DETAILS FOR IMPLEMENTING THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT OF ALL BRANDS OFFERED FOR SALE BY THE RETAILER, AND OFFERED FOR RETURN BY ANY CONSUMER IN THIS STATE, AND FOR THE RETURN OF THE COLLECTED COVERED ELECTRONIC EQUIPMENT TO THE MANUFACTURER OF THE EQUIPMENT OR TO AN ELECTRONIC RECYCLER, SPECIFYING THE IDENTITY, LOCATION AND CONTACT INFORMATION OF THE RECYCLER;

B. IF THE RETAILER RECYCLES THE COVERED ELECTRONIC EQUIPMENT ITSELF, INFORMATION ON THE ANTICIPATED END MARKETS EXPECTED TO BE UTILIZED BY THE RETAILER, INCLUDING, BUT NOT LIMITED TO, DETAILS ON THE METHODS OF RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT, DETAILS ON ANY DISASSEMBLY OR PHYSICAL RECOVERY OPERATION TO BE USED, THE LOCATIONS OF ANY SUCH OPERATIONS, DETAILS ON THE RETAILER'S SYSTEM FOR DESTROYING ALL DATA ON ANY COVERED ELECTRONIC EQUIPMENT COLLECTED, EITHER THROUGH PHYSICAL DESTRUCTION OF THE HARD DRIVE OR THROUGH DATA WIPING TO DEPARTMENT OF DEFENSE STANDARDS (US DOD 5220.22 M - CLEARING AND SANITATION MATRIX) AND DETAILS ON THE RETAILER/RECYCLER'S COMPLIANCE WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S GUIDE ON ENVIRONMENTALLY SOUND MANAGEMENT OF ELECTRONIC DEVICES;

C. ANNUAL STATE SALES DATA REGARDING COVERED ELECTRONIC EQUIPMENT SOLD BY THE RETAILER IN THE STATE, REPORTED BY WEIGHT, FOR THE PREVIOUS THREE CALENDAR YEARS;

D. A PUBLIC EDUCATION PROGRAM TO INFORM CONSUMERS ABOUT THE RETAILER'S ELECTRONIC WASTE MANAGEMENT PLAN, INCLUDING AT A MINIMUM: (I) AN INTERNET WEBSITE AND A TOLL-FREE TELEPHONE NUMBER THAT PROVIDES SUFFICIENT INFORMATION TO ALLOW A CONSUMER OF COVERED ELECTRONIC EQUIPMENT TO LEARN HOW TO RETURN THE COVERED EQUIPMENT FOR RECYCLING OR REUSE AND (II) ADVERTISEMENTS, IF ANY, AND PRESS RELEASES;

E. A LIST OF THE BRAND NAMES OF COVERED ELECTRONICS OFFERED FOR SALE BY THE RETAILER, INCLUDING: (I) ANY BRAND NAME UNDER WHICH MANUFACTURERS SUPPLYING THE RETAILER ASSEMBLE OR SUBSTANTIALLY ASSEMBLE, OR HAVE ASSEMBLED OR SUBSTANTIALLY ASSEMBLED COVERED ELECTRONIC EQUIPMENT; (II) ANY BRAND NAME UNDER WHICH MANUFACTURERS SUPPLYING THE RETAILER MANUFACTURE AND SELL, OR HAVE MANUFACTURED AND SOLD, COVERED ELECTRONIC EQUIPMENT; (III) ANY BRAND NAME UNDER WHICH MANUFACTURERS SUPPLYING THE RETAILER SELL OR HAVE SOLD COVERED ELECTRONIC EQUIPMENT PRODUCED BY ANOTHER PERSON UNDER SUCH MANUFACTURER'S OWN BRAND; (IV) ANY BRAND NAME THAT THE RETAILER OR ANY MANUFACTURER SUPPLYING THE RETAILER OWNS AND LICENSES OR HAS LICENSED TO ANOTHER PERSON FOR USE ON COVERED ELECTRONIC EQUIPMENT; (V) ANY BRAND NAME UNDER WHICH THE RETAILER OR ANY MANUFACTURER SUPPLYING THE RETAILER IMPORTS OR HAS IMPORTED COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; AND (VI) ANY BRAND NAME OF COVERED ELECTRONIC EQUIPMENT OF WHICH THE RETAILER OR ANY MANUFACTURER SUPPLYING THE RETAILER HAS BECOME THE SUCCESSOR-IN-INTEREST; AND

F. ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT IN ACCORDANCE WITH REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

4. THE DEPARTMENT SHALL APPROVE OR DISAPPROVE A PROPOSED ELECTRONIC WASTE MANAGEMENT PLAN SUBMITTED BY A RETAILER WITHIN ONE HUNDRED EIGHTY DAYS OF ITS SUBMISSION. IF THE DEPARTMENT APPROVES AN ELECTRONIC WASTE MANAGEMENT PLAN, IT SHALL EXPEDITIOUSLY NOTIFY THE RETAILER OF THE APPROVAL IN WRITING. IF THE DEPARTMENT DISAPPROVES AN ELECTRONIC WASTE

MANAGEMENT PLAN, IT SHALL EXPEDITIOUSLY NOTIFY THE RETAILER OF THE DISAPPROVAL IN WRITING AND SPECIFY THE REASONS FOR DISAPPROVAL. THE RETAILER SHALL HAVE NINETY DAYS TO RESUBMIT AN ELECTRONIC WASTE MANAGEMENT PLAN AFTER THE DEPARTMENT NOTIFIES THE RETAILER OF ITS DISAPPROVAL. THE DEPARTMENT SHALL THEN APPROVE OR DISAPPROVE A RESUBMITTED ELECTRONIC WASTE MANAGEMENT PLAN WITHIN NINETY DAYS OF RESUBMISSION.

5. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE, OR ONE HUNDRED EIGHTY DAYS AFTER AN ELECTRONIC WASTE MANAGEMENT PLAN IS APPROVED BY THE DEPARTMENT, WHICHEVER DATE IS LATER, A RETAILER OF COVERED ELECTRONIC EQUIPMENT MUST FULLY IMPLEMENT THE APPROVED ELECTRONIC WASTE MANAGEMENT PLAN FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT OFFERED FOR SALE BY THE RETAILER IN THE STATE AND GENERATED AS ELECTRONIC WASTE IN THE STATE.

6. A RETAILER MAY SATISFY THE ELECTRONIC WASTE MANAGEMENT PLAN REQUIREMENTS OF THIS SECTION BY: A. AGREEING TO PARTICIPATE IN A COLLECTIVE ELECTRONIC WASTE MANAGEMENT PLAN WITH OTHER RETAILERS. ANY SUCH COLLECTIVE WASTE MANAGEMENT PLAN MUST MEET THE SAME REQUIREMENTS AS AN ELECTRONIC WASTE MANAGEMENT PLAN SUBMITTED BY AN INDIVIDUAL RETAILER. ANY COLLECTIVE ELECTRONIC WASTE MANAGEMENT PLAN MUST INCLUDE A LIST OF RETAILERS THAT ARE PARTICIPATING IN SUCH PLAN ALONG WITH OTHER IDENTIFYING INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT. SUCH PLAN SHALL BE SUBMITTED TO THE DEPARTMENT ALONG WITH A REGISTRATION FEE OF TEN THOUSAND DOLLARS; OR

B. PAYING A FEE WHICH SHALL BE CREDITED TOWARD ELECTRONIC WASTE RECYCLING EFFORTS UNDERTAKEN BY THE COUNTY IN WHICH THE RETAILER'S PLACE OF BUSINESS IS LOCATED. THIS FEE SHALL BE IN AN AMOUNT DETERMINED ON AN ANNUAL BASIS BY THE COUNTY AND SHALL BE PAID BY THE RETAILER TO THE COUNTY NO LATER THAN JANUARY FIFTEENTH OF EACH YEAR. ALL MONIES GENERATED FROM SUCH FEES SHALL BE UTILIZED EXCLUSIVELY BY THE COUNTY FOR THE COSTS OF ELECTRONIC RECYCLING EFFORTS WITHIN THAT COUNTY.

7. A RETAILER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE DEVELOPMENT AND IMPLEMENTATION OF THE ELECTRONIC WASTE MANAGEMENT PLAN.

S 27-2607. LABELING.

BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE, A MANUFACTURER MAY NOT OFFER FOR SALE IN THE STATE OF NEW YORK OR DELIVER TO RETAILERS FOR SUBSEQUENT SALE COVERED ELECTRONIC EQUIPMENT UNLESS IT HAS A VISIBLE, PERMANENT LABEL CLEARLY IDENTIFYING THE MANUFACTURER OF THAT EQUIPMENT. IN ADDITION, THE MANUFACTURER SHALL PROVIDE A TOLL-FREE TELEPHONE NUMBER AND INTERNET WEBSITE THAT RETAILERS AND CONSUMERS CAN ACCESS FOR INFORMATION ON HOW COVERED ELECTRONIC EQUIPMENT CAN BE RETURNED FOR RECYCLING OR REUSE FREE OF CHARGE TO THE CONSUMER.

S 27-2609. DISPOSAL BAN.

1. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE, NO RETAILER SHALL DISPOSE OF COVERED ELECTRONIC EQUIPMENT OR ANY COMPONENT THEREOF IN ANY SOLID WASTE MANAGEMENT FACILITY IN THIS STATE UNLESS SUCH FACILITY IS PERMITTED PURSUANT TO THIS ARTICLE TO ACCEPT SUCH WASTE.

2. BEGINNING JANUARY FIRST, TWO THOUSAND THIRTEEN, NO CONSUMER SHALL PLACE OR DISPOSE OF ANY COVERED ELECTRONIC EQUIPMENT OR ANY COMPONENT THEREOF IN ANY SOLID WASTE MANAGEMENT FACILITY IN THIS STATE UNLESS SUCH FACILITY IS PERMITTED PURSUANT TO THIS ARTICLE TO ACCEPT SUCH WASTE.

S 27-2611. ENFORCEMENT.

1. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO ENFORCE THE PROVISIONS OF THIS TITLE, AND THE PROVISIONS OF THIS TITLE MAY ALSO BE ENFORCED BY THE ATTORNEY GENERAL, COUNTIES AND A CITY WITH A POPULATION OF ONE MILLION OR MORE.

2. ANY CONSUMER WHO VIOLATES THE PROVISIONS OF SECTION 27-2609 OF THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY OF ONE HUNDRED DOLLARS FOR EACH VIOLATION.

S 27-2613. PENALTIES.

1. BEGINNING JANUARY FIRST, TWO THOUSAND ELEVEN, A RETAILER WHO FAILS TO SUBMIT AN ELECTRONIC WASTE MANAGEMENT PLAN AS REQUIRED BY THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER DAY FOR EACH DAY THAT AN ELECTRONIC WASTE MANAGEMENT PLAN IS NOT SUBMITTED.

2. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE, A RETAILER WHO SUBMITS AN ELECTRONIC WASTE MANAGEMENT PLAN THAT IS DISAPPROVED BY THE DEPARTMENT MORE THAN THREE TIMES SHALL BE LIABLE FOR A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER DAY FOR EACH DAY THAT AN ELECTRONIC WASTE MANAGEMENT PLAN IS NOT SUBMITTED AND APPROVED BY THE DEPARTMENT FOLLOWING THE DATE OF SUCH THIRD DISAPPROVAL.

3. ANY RETAILER OR MANUFACTURER WHO VIOLATES ANY PROVISION OF THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION, TWO THOUSAND FIVE HUNDRED DOLLARS FOR THE SECOND VIOLATION AND FIVE THOUSAND DOLLARS FOR THE THIRD VIOLATION AND SUBSEQUENT VIOLATIONS OF THIS TITLE WITHIN A TWELVE MONTH PERIOD.

S 27-2615. REPORTING REQUIREMENTS.

1. BEGINNING JULY FIRST, TWO THOUSAND FOURTEEN, FOR THE PREVIOUS CALENDAR YEAR AND ANNUALLY THEREAFTER, A RETAILER THAT OFFERS COVERED ELECTRONIC EQUIPMENT FOR SALE IN THIS STATE SHALL SUBMIT A REPORT TO THE DEPARTMENT THAT INCLUDES THE FOLLOWING: (I) ANY PROPOSED MODIFICATION TO THE PREVIOUSLY APPROVED RETAILER ELECTRONIC WASTE MANAGEMENT PLAN FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF ITS COVERED ELECTRONIC EQUIPMENT; (II) SALES DATA REPORTED BY WEIGHT FOR THE RETAILER'S COVERED ELECTRONIC EQUIPMENT SOLD IN THIS STATE FOR THE PREVIOUS CALENDAR YEAR; (III) THE QUANTITY OF COVERED ELECTRONIC EQUIPMENT COLLECTED FOR RECYCLING OR REUSE IN THIS STATE, CATEGORIZED BY THE TYPE OF COVERED ELECTRONIC EQUIPMENT COLLECTED; (IV) INFORMATION ON THE END MARKETS AND ELECTRONIC RECYCLERS UTILIZED BY THE RETAILER, INCLUDING DETAILS ON THE METHODS OF COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT USED BY ELECTRONIC RECYCLERS, DETAILS ON ANY DISASSEMBLY OR PHYSICAL RECOVERY OPERATION TO BE USED, THE LOCATIONS OF ANY SUCH OPERATIONS, AND DETAILS ON THE ELECTRONIC RECYCLER'S COMPLIANCE WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S GUIDE ON ENVIRONMENTALLY SOUND MANAGEMENT OF ELECTRONIC DEVICES; (V) COSTS AND EXAMPLES OF PUBLIC EDUCATION INCLUDING THE NUMBER OF VISITS TO THE INTERNET WEBSITE AND CALLS TO THE TOLL-FREE TELEPHONE NUMBERS PROVIDED BY THE MANUFACTURER AS PART OF ITS ELECTRONIC WASTE MANAGEMENT PLAN; AND (VI) ANY OTHER INFORMATION AS REQUIRED IN ACCORDANCE WITH DEPARTMENT RULES.

2. THE DEPARTMENT SHALL SUBMIT A REPORT ON IMPLEMENTATION OF THE TITLE IN THIS STATE TO THE GOVERNOR AND LEGISLATURE BY OCTOBER FIRST, TWO THOUSAND FIFTEEN AND EVERY TWO YEARS THEREAFTER. THE REPORT SHALL INCLUDE, AT A MINIMUM, AN EVALUATION OF THE RECYCLING AND REUSE RATES IN THE STATE FOR COVERED ELECTRONIC EQUIPMENT, A DISCUSSION OF COMPLIANCE AND ENFORCEMENT, RELATED TO THE REQUIREMENTS OF THIS TITLE AND RECOMMENDATIONS FOR ANY CHANGES TO THE SYSTEM OF COLLECTION, HANDLING AND RECYCLING OR REUSE OF ELECTRONIC EQUIPMENT IN THIS STATE.

S 27-2617. PREEMPTION.

JURISDICTION IN ALL MATTERS PERTAINING TO ELECTRONIC EQUIPMENT RECYCLING IS, BY THIS TITLE, VESTED EXCLUSIVELY IN THE STATE.

S 27-2619. CONFIDENTIAL INFORMATION AND TRADE SECRETS.

INFORMATION RELATING TO ELECTRONIC EQUIPMENT SUBMITTED TO THE DEPARTMENT UNDER THIS TITLE MAY BE DESIGNATED BY THE PERSON SUBMITTING IT AS

BEING ONLY FOR THE CONFIDENTIAL USE OF THE DEPARTMENT, ITS AGENTS AND EMPLOYEES, OTHER STATE AGENCIES, EMPLOYEES OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE ATTORNEY GENERAL OF THE STATE, AND ANY POLITICAL SUBDIVISION OF THE STATE AND ITS AGENTS AND EMPLOYEES.

S 27-2621. SEVERABILITY.

THE PROVISIONS OF THIS TITLE SHALL BE SEVERABLE, AND IF ANY PROVISION OF THIS TITLE IS DECLARED TO BE VOID OR INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED, BUT SHALL REMAIN IN FULL FORCE AND EFFECT.

S 3. This act shall take effect immediately.