

LBD09896-05-9

1 1. "COVERED ELECTRONIC DEVICE" A. MEANS A DESKTOP OR LAPTOP COMPUTER,
2 COMPUTER MONITOR, PORTABLE COMPUTER, PRINTER, CATHODE RAY TUBE OR FLAT-
3 PANEL BASED TELEVISION WITH A SCREEN SIZE GREATER THAN FOUR INCHES MEAS-
4 URED DIAGONALLY, FACSIMILE MACHINES, DVD PLAYERS, PERIPHERAL, VIDEO
5 CASSETTE RECORDERS; AND

6 B. SHALL NOT INCLUDE:

7 (I) A COVERED ELECTRONIC DEVICE THAT IS A PART OF A MOTOR VEHICLE OR
8 ANY COMPONENT PART OF A MOTOR VEHICLE ASSEMBLED BY OR FOR A VEHICLE
9 MANUFACTURER OR FRANCHISED DEALER, INCLUDING REPLACEMENT PARTS FOR USE
10 IN A MOTOR VEHICLE;

11 (II) A COVERED ELECTRONIC DEVICE THAT IS FUNCTIONALLY OR PHYSICALLY A
12 PART OF A LARGER PIECE OF EQUIPMENT DESIGNED AND INTENDED FOR USE IN AN
13 INDUSTRIAL, COMMERCIAL OR MEDICAL SETTING, INCLUDING DIAGNOSTIC, MONI-
14 TORING OR CONTROL EQUIPMENT;

15 (III) A COVERED ELECTRONIC DEVICE THAT IS CONTAINED WITHIN A CLOTHES
16 WASHER, CLOTHES DRYER, REFRIGERATOR, REFRIGERATOR AND FREEZER, MICROWAVE
17 OVEN, CONVENTIONAL OVEN OR RANGE, DISHWASHER, ROOM AIR CONDITIONER,
18 DEHUMIDIFIER OR AIR PURIFIER; OR

19 (IV) A TELEPHONE OF ANY TYPE, UNLESS IT CONTAINS A VIDEO DISPLAY AREA
20 GREATER THAN NINE INCHES, MEASURED DIAGONALLY.

21 2. "HOUSEHOLD" MEANS AN OCCUPANT OF A SINGLE DETACHED DWELLING UNIT OR
22 A SINGLE UNIT OF A MULTIPLE DWELLING UNIT WHO HAS USED A COVERED ELEC-
23 TRONIC DEVICE AT A DWELLING UNIT PRIMARILY FOR PERSONAL OR HOME BUSINESS
24 USE.

25 3. "MANUFACTURER" MEANS ANY PERSON WHO, IRRESPECTIVE OF THE SELLING
26 TECHNIQUE USED, INCLUDING BY MEANS OF REMOTE SALE:

27 A. MANUFACTURES OR MANUFACTURED COVERED ELECTRONIC DEVICES UNDER ITS
28 OWN BRAND FOR SALE;

29 B. MANUFACTURES OR MANUFACTURED COVERED ELECTRONIC DEVICES FOR SALE IN
30 THIS STATE WITHOUT AFFIXING A BRAND; OR

31 C. RESELLS OR RESOLD IN THIS STATE COVERED ELECTRONIC DEVICES PRODUCED
32 BY OTHER SUPPLIERS UNDER ITS OWN BRAND OR LABEL.

33 4. "MANUFACTURER'S BRANDS" MEANS A MANUFACTURER'S NAME, BRAND NAME OR
34 BRAND LABEL, AND ALL MANUFACTURER'S NAMES, BRAND NAMES AND BRAND LABELS
35 FOR WHICH THE MANUFACTURER HAS LEGAL RESPONSIBILITY, INCLUDING THOSE
36 NAMES, BRAND NAMES, AND BRAND LABELS OF COMPANIES THAT HAVE BEEN
37 ACQUIRED BY THE MANUFACTURER.

38 5. "PROGRAM YEAR" MEANS A FULL CALENDAR YEAR BEGINNING ON OR AFTER
39 JANUARY FIRST, TWO THOUSAND ELEVEN.

40 6. "RECYCLING" MEANS THE PROCESS OF COLLECTING AND PREPARING COVERED
41 ELECTRONIC DEVICES FOR USE IN MANUFACTURING PROCESSES OR FOR RECOVERY OF
42 USEABLE MATERIALS FOLLOWED BY DELIVERY OF SUCH MATERIALS FOR USE; RECY-
43 CLING DOES NOT INCLUDE THE DESTRUCTION BY INCINERATION OR OTHER PROCESS
44 OR LAND DISPOSAL OF RECYCLABLE MATERIALS NOR REUSE, REPAIR, OR ANY OTHER
45 PROCESS THROUGH WHICH COVERED ELECTRONIC DEVICES ARE RETURNED TO USE FOR
46 HOUSEHOLDS IN THEIR ORIGINAL FORM.

47 7. "RECYCLING CREDITS" MEANS THE NUMBER OF POUNDS OF COVERED ELECTRON-
48 IC DEVICES RECYCLED BY A MANUFACTURER FROM HOUSEHOLDS DURING A PROGRAM
49 YEAR, LESS THE PRODUCT OF THE NUMBER OF POUNDS OF COVERED ELECTRONIC
50 DEVICES SOLD TO HOUSEHOLDS DURING THE SAME PROGRAM YEAR, MULTIPLIED BY
51 THE PROPORTION OF SALES A MANUFACTURER IS REQUIRED TO RECYCLE.

52 8. "RETAIL SALES" MEANS SALES OF PRODUCTS THROUGH SALES OUTLETS, VIA
53 THE INTERNET, MAIL ORDER OR ANY OTHER MEANS.

54 9. "RETAILER" MEANS A PERSON WHO OWNS OR OPERATES A BUSINESS THAT
55 SELLS NEW COVERED ELECTRONIC DEVICES INCLUDING SALES OUTLETS, CATALOGS
56 OR THE INTERNET.

10. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE INCLUDING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH SALES OUTLETS, CATALOGS OR THE INTERNET, OR ANY OTHER, SIMILAR ELECTRONIC MEANS EITHER INSIDE OR OUTSIDE OF THIS STATE AND EXCLUDING LEASES, BUT DOES NOT INCLUDE A MANUFACTURER'S OR DISTRIBUTOR'S WHOLESALE TRANSACTION WITH A DISTRIBUTOR OR RETAILER.

S 27-2603. REQUIREMENTS FOR SALE OF COVERED ELECTRONIC DEVICES.

NO MANUFACTURER SHALL SELL OR OFFER FOR SALE OR DELIVER TO RETAILERS A NEW COVERED ELECTRONIC DEVICE IN THIS STATE UNLESS:

1. THE COVERED ELECTRONIC DEVICE IS LABELED, PERMANENTLY AFFIXED AND READILY VISIBLE; AND

2. THE MANUFACTURER HAS FILED A REGISTRATION WITH THE DEPARTMENT.

A. THE DEPARTMENT SHALL MAINTAIN AND DISSEMINATE A LIST OF EACH MANUFACTURER REGISTERED, AND A LIST OF MANUFACTURER'S BRANDS AS REPORTED IN THE MANUFACTURER'S REGISTRATION.

B. SUCH LIST SHALL BE POSTED ON THE DEPARTMENT WEBSITE AND SHALL BE UPDATED ON A MONTHLY BASIS.

C. EVERY PERSON WHO SELLS OR BRINGS INTO THIS STATE FOR SALE ANY COVERED ELECTRONIC DEVICE, SHALL REVIEW SUCH LIST PRIOR TO SELLING A COVERED ELECTRONIC DEVICE IN THIS STATE.

D. A PERSON IS CONSIDERED TO HAVE COMPLIED WITH THIS SUBDIVISION IF, ON THE DATE A COVERED ELECTRONIC DEVICE WAS ORDERED, THE MANUFACTURER WAS INCLUDED ON THE LIST MAINTAINED BY THE DEPARTMENT ON ITS WEBSITE AS HAVING REGISTERED.

S 27-2605. MANUFACTURER RESPONSIBILITY.

1. BY JUNE FIRST, TWO THOUSAND TEN, EACH MANUFACTURER OF COVERED ELECTRONIC DEVICES OFFERED FOR SALE IN THIS STATE SHALL REGISTER ANNUALLY WITH THE DEPARTMENT AND PAY A REGISTRATION FEE OF FIVE THOUSAND DOLLARS.

A. EACH YEAR THEREAFTER, THE REGISTRATION FEE IS EQUAL TO A BASE FEE OF TWO THOUSAND FIVE HUNDRED DOLLARS, PLUS A VARIABLE RECYCLING FEE CALCULATED ACCORDING TO THE FOLLOWING FORMULA:

$((A \times B) - (C + D)) \times E$, WHERE:

(I) A = THE NUMBER OF POUNDS OF A MANUFACTURER'S COVERED ELECTRONIC DEVICES SOLD TO HOUSEHOLDS DURING THE PREVIOUS PROGRAM YEAR, AS REPORTED TO THE DEPARTMENT PURSUANT TO SUBDIVISION THREE OF THIS SECTION;

(II) B = THE PROPORTION OF SALES OF VIDEO DISPLAY DEVICES REQUIRED TO BE RECYCLED, SET AT 0.3 FOR THE FIRST PROGRAM YEAR, 0.6 FOR THE SECOND PROGRAM YEAR AND 0.75 FOR THE FOURTH PROGRAM YEAR, AND EVERY YEAR THEREAFTER;

(III) C = THE NUMBER OF POUNDS OF COVERED ELECTRONIC DEVICES RECYCLED BY A MANUFACTURER FROM HOUSEHOLDS DURING THE PREVIOUS PROGRAM YEAR, AS REPORTED TO THE DEPARTMENT UNDER THIS SECTION;

(IV) D = THE NUMBER OF RECYCLING CREDITS A MANUFACTURER ELECTS TO USE TO CALCULATE THE VARIABLE RECYCLING FEE, AS REPORTED TO THE DEPARTMENT PURSUANT TO SUBDIVISION THREE OF THIS SECTION; AND

(V) E = THE ESTIMATED PER-POUND COST OF RECYCLING, INITIALLY SET AT \$0.50 PER POUND FOR MANUFACTURERS WHO RECYCLE LESS THAN FIFTY PERCENT OF THE PRODUCT ($A \times B$); \$0.40 PER POUND FOR MANUFACTURERS WHO RECYCLE AT LEAST FIFTY PERCENT BUT LESS THAN NINETY PERCENT OF THE PRODUCT ($A \times B$); AND \$0.30 PER POUND FOR MANUFACTURERS WHO RECYCLE AT LEAST NINETY PERCENT BUT LESS THAN ONE HUNDRED PERCENT OF THE PRODUCT ($A \times B$).

B. IF THE TERM $C - (A \times B)$ EQUALS A POSITIVE NUMBER OF POUNDS, THAT AMOUNT IS DEFINED AS THE MANUFACTURER'S RECYCLING CREDITS. A MANUFACTURER MAY RETAIN RECYCLING CREDITS TO BE ADDED, IN WHOLE OR IN PART, TO THE ACTUAL VALUE OF C, AS REPORTED UNDER SUBDIVISION THREE OF THIS SECTION, DURING ANY OF THE THREE SUCCEEDING PROGRAM YEARS. A MANUFACTURER MAY

1 SELL ANY PORTION OR ALL OF ITS RECYCLING CREDITS TO ANOTHER MANUFACTUR-
2 ER, AT A PRICE NEGOTIATED BY THE PARTIES, WHO MAY USE THE CREDITS IN THE
3 SAME MANNER. EACH MANUFACTURER WHO IS REGISTERED SHALL SUBMIT AN ANNUAL
4 RENEWAL OF ITS REGISTRATION TO THE DEPARTMENT BY JANUARY FIRST. THE
5 REGISTRATION AND ALL RENEWALS SHALL INCLUDE A LIST OF THE MANUFACTURER'S
6 BRANDS OF COVERED ELECTRONIC DEVICES, INCLUDING ALL BRANDS SOLD IN THE
7 STATE, ALL BRANDS BEING SOLD IN THE STATE, AND ALL BRANDS FOR WHICH THE
8 MANUFACTURER HAS LEGAL RESPONSIBILITY PURSUANT TO SUBDIVISION SIX OF
9 THIS SECTION.

10 2. A MANUFACTURER MUST ANNUALLY RECYCLE OR ARRANGE FOR THE COLLECTION
11 AND RECYCLING OF THE NUMBER OF POUNDS OF A MANUFACTURER'S COVERED ELEC-
12 TRONIC DEVICES SOLD TO HOUSEHOLDS DURING THE PREVIOUS PROGRAM YEAR
13 MULTIPLIED BY THE PROPORTION OF SALES OF VIDEO DISPLAY DEVICES REQUIRED
14 TO BE RECYCLED, SET AT 0.3 FOR THE FIRST PROGRAM YEAR, 0.6 FOR THE
15 SECOND PROGRAM YEAR, AND 0.75 FOR THE FOURTH PROGRAM YEAR, AND EVERY
16 YEAR THEREAFTER.

17 3. ON OR BEFORE JUNE FIRST, TWO THOUSAND ELEVEN, AND ANNUALLY THERE-
18 AFTER, EACH MANUFACTURER SHALL SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT
19 THAT INCLUDES THE FOLLOWING INFORMATION FOR THE PRIOR CALENDAR YEAR:

20 A. THE TOTAL WEIGHT OF EACH SPECIFIC MODEL OF ITS COVERED ELECTRONIC
21 DEVICES SOLD TO HOUSEHOLDS DURING THE PREVIOUS PROGRAM YEAR;

22 B. THE TOTAL WEIGHT OF ITS COVERED ELECTRONIC DEVICES SOLD TO HOUSE-
23 HOLDS DURING THE PREVIOUS YEAR; OR

24 C. AN ESTIMATE OF THE TOTAL WEIGHT OF ITS COVERED ELECTRONIC DEVICES
25 SOLD TO HOUSEHOLDS DURING THE PREVIOUS PROGRAM YEAR BASED ON NATIONAL
26 SALES DATA.

27 4. A MANUFACTURER SHALL SUBMIT WITH THE REPORT REQUIRED UNDER THIS
28 SECTION A DESCRIPTION OF HOW THE INFORMATION OR ESTIMATE WAS CALCULATED.
29 EACH MANUFACTURER MUST REPORT TO THE DEPARTMENT THE TOTAL WEIGHT OF
30 COVERED ELECTRONIC DEVICES THE MANUFACTURER COLLECTED FROM HOUSEHOLDS
31 AND RECYCLED OR ARRANGED TO HAVE COLLECTED AND RECYCLED DURING THE
32 PRECEDING PROGRAM YEAR.

33 5. EACH MANUFACTURER MUST SET FORTH IN THE ANNUAL REPORT REQUIRED
34 UNDER THIS SECTION INFORMATION ON THE END MARKETS AND ELECTRONIC RECY-
35 CLERS UTILIZED BY THE MANUFACTURER, INCLUDING DETAILS ON THE METHODS OF
36 COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIP-
37 MENT USED BY ELECTRONIC RECYCLERS, DETAILS ON ANY DISASSEMBLY OR PHYS-
38 ICAL RECOVERY OPERATION TO BE USED, THE LOCATIONS OF ANY SUCH OPER-
39 ATIONS, AND DETAILS ON THE MANUFACTURER'S COMPLIANCE WITH APPLICABLE
40 LAWS AND REGULATIONS RELATING TO THE DISPOSITION, RECYCLING AND REUSE OF
41 COVERED ELECTRONIC EQUIPMENT.

42 6. BY SEPTEMBER FIRST OF EACH YEAR, EACH MANUFACTURER SHALL REPORT TO
43 THE DEPARTMENT:

44 A. THE NUMBER OF RECYCLING CREDITS THE MANUFACTURER HAS PURCHASED AND
45 SOLD DURING THE PRECEDING PROGRAM YEAR;

46 B. THE NUMBER OF RECYCLING CREDITS POSSESSED BY THE MANUFACTURER THAT
47 THE MANUFACTURER ELECTS TO USE IN THE CALCULATION OF ITS VARIABLE RECY-
48 CLING FEE UNDER SUBDIVISION ONE OF THIS SECTION; AND

49 C. THE NUMBER OF RECYCLING CREDITS THE MANUFACTURER RETAINS AT THE
50 BEGINNING OF THE CURRENT PROGRAM YEAR.

51 7. ANY PERSON ACQUIRING A MANUFACTURER, OR WHO HAS ACQUIRED A MANUFAC-
52 Turer SHALL HAVE ALL RESPONSIBILITY FOR THE ACQUIRED COMPANY'S COVERED
53 ELECTRONIC DEVICES, INCLUDING COVERED ELECTRONIC DEVICES MANUFACTURED
54 PRIOR TO THE EFFECTIVE DATE OF THIS TITLE, UNLESS THAT RESPONSIBILITY
55 REMAINS WITH ANOTHER ENTITY PER THE PURCHASE AGREEMENT AND THE ACQUIRING

1 MANUFACTURER PROVIDES THE DEPARTMENT WITH A LETTER FROM THE OTHER ENTITY
2 ACCEPTING RESPONSIBILITY FOR THE COVERED ELECTRONIC DEVICES.

3 S 27-2607. RECYCLER'S REPORTING REQUIREMENTS.

4 BY AUGUST FIRST OF EACH YEAR, BEGINNING IN TWO THOUSAND TEN, A RECY-
5 CLER OF COVERED ELECTRONIC DEVICES SHALL REPORT TO THE AGENCY AND THE
6 DEPARTMENT THE TOTAL WEIGHT OF COVERED ELECTRONIC DEVICES RECYCLED
7 DURING THE PRECEDING PROGRAM YEAR AND MUST CERTIFY THAT THE RECYCLER HAS
8 COMPLIED WITH SECTION 27-2603 OF THIS TITLE.

9 S 27-2609. COLLECTOR'S REPORTING REQUIREMENTS.

10 BY AUGUST FIRST OF EACH YEAR, BEGINNING IN TWO THOUSAND TEN, A COLLEC-
11 TOR MUST REPORT SEPARATELY TO THE AGENCY THE TOTAL POUNDS OF COVERED
12 ELECTRONIC DEVICES COLLECTED BY COUNTY.

13 S 27-2611. RETAILER RESPONSIBILITY.

14 1. BY JANUARY FIRST, TWO THOUSAND ELEVEN, A RETAILER MUST REPORT TO A
15 MANUFACTURER THE NUMBER OF COVERED ELECTRONIC DEVICES, BY VIDEO DISPLAY
16 DEVICE MODEL, LABELED WITH THE MANUFACTURER'S BRAND SOLD TO HOUSEHOLDS
17 DURING THE PREVIOUS PROGRAM YEAR.

18 2. A RETAILER WHO SELLS NEW COVERED ELECTRONIC DEVICES SHALL PROVIDE
19 INFORMATION TO HOUSEHOLDS DESCRIBING WHERE AND HOW THEY MAY RECYCLE
20 COVERED ELECTRONIC DEVICES AND ADVISING THEM OF OPPORTUNITIES AND
21 LOCATIONS FOR THE CONVENIENT COLLECTION OF COVERED ELECTRONIC DEVICES
22 FOR THE PURPOSE OF RECYCLING. THIS REQUIREMENT MAY BE MET BY PROVIDING
23 THE DEPARTMENT'S TOLL-FREE NUMBER AND WEBSITE ADDRESS. RETAILERS SELLING
24 THROUGH CATALOGS OR THE INTERNET MAY MEET THIS REQUIREMENT BY INCLUDING
25 THE INFORMATION IN A PROMINENT LOCATION ON THE RETAILER'S WEBSITE.

26 S 27-2613. DEPARTMENT RESPONSIBILITY.

27 1. THE DEPARTMENT SHALL ESTABLISH PROCEDURES FOR:

28 A. RECEIPT, MAINTENANCE AND REVIEW OF THE REGISTRATION STATEMENTS
29 FILED WITH THE DEPARTMENT UNDER SECTIONS 27-2603, 27-2605, 27-2607 AND
30 27-2609 OF THIS TITLE; AND

31 B. MAKING THE STATEMENTS, CERTIFICATIONS AND REPORTS REQUIRED UNDER
32 PARAGRAPH A OF THIS SUBDIVISION EASILY AVAILABLE TO MANUFACTURERS,
33 RETAILERS, AND MEMBERS OF THE PUBLIC.

34 2. THE DEPARTMENT SHALL ANNUALLY REVIEW THE VALUE OF THE FOLLOWING
35 VARIABLES THAT ARE PART OF THE FORMULA USED TO CALCULATE A MANUFACTUR-
36 ER'S ANNUAL REGISTRATION FEE UNDER SECTION 27-2605 OF THIS TITLE:

37 A. THE PROPORTION OF SALES OF COVERED ELECTRONIC DEVICES SOLD TO
38 HOUSEHOLDS THAT MANUFACTURERS ARE REQUIRED TO RECYCLE;

39 B. THE ESTIMATED PER POUND PRICE OF RECYCLING COVERED ELECTRONIC
40 DEVICES SOLD TO HOUSEHOLDS;

41 C. THE BASE REGISTRATION FEE; AND

42 D. THE MULTIPLIER ESTABLISHED FOR THE WEIGHT OF COVERED ELECTRONIC
43 DEVICES COLLECTED IN SECTION 27-2605 OF THIS TITLE. IF THE DEPARTMENT
44 DETERMINES THAT ANY OF THESE VALUES MUST BE CHANGED IN ORDER TO IMPROVE
45 THE EFFICIENCY OR EFFECTIVENESS OF THE ACTIVITIES REGULATED UNDER THIS
46 ARTICLE OR IF THE REVENUES IN THE ELECTRONIC WASTE RECYCLING ACCOUNT
47 EXCEED THE AMOUNT THAT THE DEPARTMENT DETERMINES IS NECESSARY, THE
48 DEPARTMENT SHALL SUBMIT RECOMMENDED CHANGES AND THE REASONS FOR THEM TO
49 THE CHAIRS OF THE SENATE AND ASSEMBLY COMMITTEES ON ENVIRONMENTAL
50 CONSERVATION.

51 S 27-2615. ELECTRONIC WASTE RECYCLING ACCOUNT.

52 FEES AND PENALTIES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE DEPOS-
53 ITED IN THE ELECTRONIC WASTE RECYCLING FUND ESTABLISHED IN SECTION NINE-
54 TY-TWO-T OF THE STATE FINANCE LAW. ANY INTEREST EARNED ON THE ACCOUNT
55 SHALL BE CREDITED TO THE ACCOUNT AND MONEY FROM OTHER SOURCES MAY BE
56 CREDITED TO THE ACCOUNT.

1 S 27-2617. FEES FOR THE COLLECTION OR RECYCLING OF COVERED ELECTRONIC
2 DEVICES.

3 NO FEE OR CHARGE SHALL BE IMPOSED UPON ANY COVERED ENTITY FOR THE
4 COLLECTION, TRANSPORTATION OR RECYCLING OF COVERED ELECTRONIC DEVICES BY
5 ANY PERSON OR ENTITY PARTICIPATING IN OR BEING COMPENSATED BY THE STATE-
6 WIDE PROGRAM OPERATED AND FUNDED BY THE DEPARTMENT OR BY A MANUFACTURER
7 FOR RECYCLING OR TAKE-BACK OR FOR ANY OTHER PURPOSE RELATED TO THE
8 COLLECTION, TRANSPORTATION OR RECYCLING OF COVERED ELECTRONIC DEVICES.
9 PROVIDED, HOWEVER, THAT THIS SHALL NOT PROHIBIT COLLECTORS PROVIDING
10 PREMIUM SERVICES FROM CHARGING CUSTOMERS A FEE FOR THE ADDITIONAL
11 COLLECTION COST OF PROVIDING SUCH SERVICE, WHEN FUNDING FOR COLLECTION
12 FROM THE STATE-WIDE PROGRAM FUNDED BY THE DEPARTMENT OR A PROGRAM FUNDED
13 BY A MANUFACTURER DOES NOT FULLY COVER THE COST OF SUCH SERVICE.

14 S 27-2619. REGULATORY AUTHORITY.

15 THE DEPARTMENT MAY ADOPT SUCH RULES AND REGULATIONS AS SHALL BE NECES-
16 SARY TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

17 S 27-2621. STATE PREEMPTION.

18 JURISDICTION IN ALL MATTERS PERTAINING TO ELECTRONIC EQUIPMENT RECYCL-
19 ING IS BY THIS TITLE VESTED EXCLUSIVELY IN THE STATE. ANY PROVISION OF
20 ANY LOCAL LAW OR ORDINANCE, OR ANY RULE OR REGULATION PROMULGATED THERE-
21 TO, GOVERNING THE RECYCLING OF ELECTRONIC EQUIPMENT RECYCLING SHALL,
22 UPON THE EFFECTIVE DATE OF THIS TITLE, BE PREEMPTED. PROVIDED HOWEVER,
23 NOTHING IN THIS SECTION SHALL PRECLUDE A PERSON FROM COORDINATING FOR
24 RECYCLING OR REUSE THE COLLECTION OF ELECTRONIC EQUIPMENT.

25 S 27-2623. FEDERAL PREEMPTION.

26 THIS TITLE SHALL BE DEEMED REPEALED IF A FEDERAL LAW OR A COMBINATION
27 OF FEDERAL LAWS, TAKES EFFECT THAT ESTABLISHES A NATIONAL PROGRAM FOR
28 THE COLLECTION AND RECYCLING OF COVERED ELECTRONIC DEVICES THAT SUBSTAN-
29 Tially MEETS THE INTENT OF THIS TITLE, INCLUDING THE CREATION OF A
30 FINANCING MECHANISM FOR COLLECTION, TRANSPORTATION, AND RECYCLING OF ALL
31 COVERED ELECTRONIC DEVICES FROM HOUSEHOLDS, SMALL BUSINESSES, SCHOOL
32 DISTRICTS AND NOT-FOR-PROFIT CORPORATIONS IN THE UNITED STATES.

33 S 27-2625. SEVERABILITY.

34 THE PROVISIONS OF THIS TITLE SHALL BE SEVERABLE, AND IF ANY PARAGRAPH,
35 SUBDIVISION, SECTION OR PART OF THIS TITLE IS DECLARED TO BE VOID OR
36 INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS
37 SHALL NOT BE AFFECTED, BUT SHALL REMAIN IN FULL FORCE AND EFFECT.

38 S 3. The environmental conservation law is amended by adding a new
39 section 71-2729 to read as follows:

40 S 71-2729. ENFORCEMENT OF TITLE 26 OF ARTICLE 27.

41 ANY MANUFACTURER WHO VIOLATES ANY REQUIREMENT OF TITLE 26 OF ARTICLE
42 27 OF THIS CHAPTER MUST FIRST RECEIVE A WRITTEN WARNING FROM THE DEPART-
43 MENT INCLUDING A COPY OF THE REQUIREMENTS AND THIRTY DAYS TO CORRECT THE
44 VIOLATION. AFTER THIRTY DAYS, SUCH MANUFACTURER MAY BE ASSESSED A
45 PENALTY OF UP TO ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND UP TO
46 TWO THOUSAND DOLLARS FOR THE SECOND AND EACH SUBSEQUENT VIOLATION, IN
47 ADDITION TO BEING RESPONSIBLE FOR ANY PAYMENTS REQUIRED IN THIS ARTICLE.

48 S 4. The state finance law is amended by adding a new section 92-t to
49 read as follows:

50 S 92-T. ELECTRONIC WASTE RECYCLING FUND. 1. THERE IS HEREBY CREATED IN
51 THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF TAXATION
52 AND FINANCE A FUND TO BE KNOWN AS THE ELECTRONIC WASTE RECYCLING FUND.

53 2. THE FUND SHALL CONSIST OF ALL MONEYS COLLECTED PURSUANT TO TITLE
54 TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION
55 LAW, AND ANY OTHER MONEYS GIFTED OR APPROPRIATED TO THE FUND.

1 3. MONEYS OF THE FUND SHALL BE MADE AVAILABLE, PURSUANT TO APPROPRI-
2 ATION, TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO BE USED SOLELY
3 FOR THE PURPOSES OF IMPLEMENTING AND ENFORCING THE PROVISIONS OF TITLE
4 TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION
5 LAW.

6 S 5. This act shall take effect January 1, 2010 except that:

7 (a) the department of environmental conservation is immediately
8 authorized to develop any rules and regulations necessary to implement
9 the provisions of this act; and

10 (b) the department of environmental conservation shall notify the
11 legislative bill drafting commission upon the occurrence of the enact-
12 ment of the legislation provided for in section 27-2623 of the environ-
13 mental conservation law, as added by section two of this act, in order
14 that the commission may maintain an accurate and timely effective data
15 base of the official text of the laws of the state of New York in furth-
16 erance of effectuating the provisions of section 44 of the legislative
17 law and section 70-b of the public officers law.