

2009-2010 Regular Sessions

I N S E N A T E

January 22, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed 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

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

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

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

5 TITLE 26

6 ELECTRONIC EQUIPMENT RECYCLING AND REUSE

7 SECTION 27-2601. DEFINITIONS.

8 27-2603. MANUFACTURER COLLECTION.

9 27-2605. MANUFACTURER ELECTRONIC WASTE MANAGEMENT PLAN.

10 27-2607. RETAILER REQUIREMENTS.

11 27-2609. LABELING.

12 27-2611. DISPOSAL BAN.

13 27-2613. ENFORCEMENT.

14 27-2615. MANUFACTURER PENALTIES.

15 27-2617. REPORTING REQUIREMENTS.

16 27-2619. PREEMPTION

17 27-2621. CONFIDENTIAL INFORMATION AND TRADE SECRETS.

18 27-2623. SEVERABILITY.

19 S 27-2601. DEFINITIONS.

20 AS USED IN THIS TITLE:

21 1. "CATHODE RAY TUBE" MEANS A VACUUM TUBE OR PICTURE TUBE USED TO
22 CONVERT AN ELECTRONIC SIGNAL INTO A VISUAL IMAGE.

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

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1 2. "COMPUTER" MEANS AN ELECTRONIC, MAGNETIC, OPTICAL, ELECTROCHEMICAL
2 OR OTHER HIGH-SPEED DATA PROCESSING DEVICE PERFORMING A LOGICAL, ARITH-
3 METIC OR STORAGE FUNCTION, AND MAY INCLUDE BOTH A COMPUTER CENTRAL PROC-
4 ESSING UNIT AND A MONITOR; BUT SUCH TERM SHALL NOT INCLUDE AN AUTOMATED
5 TYPEWRITER OR TYPESETTER, A PORTABLE HAND-HELD CALCULATOR, A PORTABLE
6 DIGITAL ASSISTANT, OR OTHER SIMILAR DEVICE.

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

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

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

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

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

49 8. "MANUFACTURER" MEANS A PERSON WHO: (A) ASSEMBLES OR SUBSTANTIALLY
50 ASSEMBLES, OR HAS ASSEMBLED OR SUBSTANTIALLY ASSEMBLED, COVERED ELEC-
51 TRONIC EQUIPMENT FOR SALE IN THE STATE; (B) MANUFACTURES OR HAS MANUFAC-
52 TURED COVERED ELECTRONIC EQUIPMENT UNDER ITS OWN BRAND NAME OR UNDER ANY
53 OTHER BRAND NAME FOR SALE IN THE STATE; (C) SELLS OR HAS SOLD, UNDER ITS
54 OWN BRAND NAME, COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (D) OWNS
55 A BRAND NAME THAT IT LICENSES OR HAS LICENSED TO ANOTHER PERSON FOR USE
56 ON COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (E) IMPORTS OR HAS

1 IMPORTED COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; (F) MANU-
2 FACTURES OR HAS MANUFACTURED COVERED ELECTRONIC EQUIPMENT FOR SALE IN
3 THE STATE WITHOUT AFFIXING A BRAND NAME.

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

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

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

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

25 13. "PORTABLE COMPUTER" MEANS A COMPUTER AND VIDEO DISPLAY GREATER
26 THAN FOUR INCHES IN SIZE THAT CAN BE CARRIED AS ONE UNIT BY AN INDIVID-
27 UAL.

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

32 15. "RETAILER" MEANS A PERSON WHO SELLS COVERED ELECTRONIC EQUIPMENT
33 TO A CONSUMER IN THE STATE THROUGH ANY MEANS, INCLUDING, BUT NOT LIMITED
34 TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES OUTLETS, CATALOGS OR THE
35 INTERNET, OR ANY ELECTRONIC MEANS.

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

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

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

52 S 27-2603. MANUFACTURER COLLECTION.

53 1. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE OR ONE HUNDRED EIGHTY
54 DAYS AFTER AN ELECTRONIC WASTE MANAGEMENT PLAN IS APPROVED BY THE
55 DEPARTMENT, WHICHEVER DATE IS LATER, A MANUFACTURER OF COVERED ELECTRON-
56 IC EQUIPMENT MUST ACCEPT FOR COLLECTION, HANDLING AND RECYCLING OR REUSE

1 OF COVERED ELECTRONIC EQUIPMENT THAT IS OFFERED FOR RETURN BY ANY PERSON
2 AND WHICH HAS BEEN ASSEMBLED, MANUFACTURED OR IMPORTED BY SUCH MANUFAC-
3 Turer, OR HAS BEEN SOLD UNDER SUCH MANUFACTURER'S BRAND NAME.

4 2. BEGINNING JANUARY FIRST, TWO THOUSAND THIRTEEN OR ONE HUNDRED
5 EIGHTY DAYS AFTER AN ELECTRONIC WASTE MANAGEMENT PLAN IS APPROVED BY THE
6 DEPARTMENT, WHICHEVER DATE IS LATER, EACH MANUFACTURER MUST ACCEPT FOR
7 COLLECTION, HANDLING AND RECYCLING OR REUSE OF ITS SHARE OF ORPHAN WASTE
8 IN THE STATE. EACH MANUFACTURER'S SHARE OF ORPHAN WASTE SHALL BE DETER-
9 MINED BY THE DEPARTMENT BASED ON THE WEIGHT PERCENTAGE SHARE OF THE
10 MANUFACTURER AS DETERMINED BY THE BEST AVAILABLE INFORMATION, INCLUDING,
11 BUT NOT LIMITED TO, STATE SALES DATA REPORTED BY WEIGHT. BEGINNING
12 JANUARY FIRST, TWO THOUSAND TWELVE, AND EVERY YEAR THEREAFTER, THE
13 DEPARTMENT SHALL PROVIDE EACH MANUFACTURER WITH A DETERMINATION OF ITS
14 SHARE OF ORPHAN WASTE. NO MANUFACTURER SHALL BE RESPONSIBLE FOR THE
15 COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIP-
16 MENT OF A DIFFERENT TYPE THAN THE COVERED ELECTRONIC EQUIPMENT OFFERED
17 FOR SALE BY THE MANUFACTURER.

18 S 27-2605. MANUFACTURER ELECTRONIC WASTE MANAGEMENT PLAN.

19 THE DEPARTMENT SHALL ADOPT RULES AND REGULATIONS PROMULGATING RECYCL-
20 ING COLLECTION STANDARDS. SUCH STANDARDS SHALL BE DETERMINED BASED ON
21 THE AVERAGE ANNUAL SALES OF THE MANUFACTURER'S COVERED ELECTRONIC EQUIP-
22 MENT IN THE STATE, REPORTED BY WEIGHT, DURING THE PREVIOUS THREE CALEN-
23 DAR YEARS; BY JULY FIRST, TWO THOUSAND SIXTEEN, THE MINIMUM COLLECTION
24 STANDARD IS TWENTY-FIVE PERCENT AND BY JULY FIRST, TWO THOUSAND NINE-
25 TEEN, THE MINIMUM COLLECTION STANDARD IS FORTY-FIVE PERCENT. THE COMMIS-
26 SIONER MAY GRANT A WAIVER, IN WHOLE OR IN PART, FROM THE COLLECTION
27 STANDARDS AND ANY RESULTING FINES OR PENALTIES WHERE A MANUFACTURER HAS
28 DEMONSTRATED TO THE COMMISSIONER'S SATISFACTION THAT SUCH MINIMUM
29 COLLECTION STANDARDS COULD NOT BE MET DESPITE THE BEST EFFORTS OF THE
30 MANUFACTURER.

31 1. A MANUFACTURER SHALL DEVELOP AN ELECTRONIC WASTE MANAGEMENT PLAN
32 AND SUBMIT, ALONG WITH A REGISTRATION FEE OF FIVE THOUSAND DOLLARS, A
33 REPORT AS REQUIRED BY THIS SECTION.

34 2. NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, A MANUFACTURER
35 SHALL DEVELOP AND SUBMIT TO THE DEPARTMENT AN ELECTRONIC WASTE MANAGE-
36 MENT PLAN FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED
37 ELECTRONIC EQUIPMENT AND ORPHAN WASTE. ANY PERSON WHO BECOMES A
38 MANUFACTURER ON OR AFTER JULY FIRST, TWO THOUSAND ELEVEN SHALL SUBMIT TO
39 THE DEPARTMENT AN ELECTRONIC WASTE MANAGEMENT PLAN FOR THE COLLECTION,
40 HANDLING, AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT AND
41 ORPHAN WASTE PRIOR TO SELLING ANY COVERED ELECTRONIC EQUIPMENT IN THE
42 STATE. THE MANUFACTURER SHALL NOT IMPOSE A FEE ON CONSUMERS FOR THE
43 COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIP-
44 MENT.

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

46 A. DETAILS FOR IMPLEMENTING THE COLLECTION, HANDLING AND RECYCLING OR
47 REUSE OF COVERED ELECTRONIC EQUIPMENT PRODUCED BY THE MANUFACTURER AND
48 OFFERED FOR RETURN BY ANY CONSUMER IN THIS STATE AND FOR IMPLEMENTING
49 THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF ITS SHARE OF ORPHAN
50 WASTE GENERATED AS ELECTRONIC WASTE IN THIS STATE, INCLUDING, BUT NOT
51 LIMITED TO, SPECIFIC INFORMATION ON HOW A CONSUMER CAN RETURN TO THE
52 MANUFACTURER FOR RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT FREE
53 OF COST AND IN A MANNER CONVENIENT TO CONSUMERS;

54 B. INFORMATION ON THE ANTICIPATED END MARKETS AND ELECTRONIC RECYCLERS
55 EXPECTED TO BE UTILIZED BY THE MANUFACTURER, INCLUDING, BUT NOT LIMITED
56 TO, DETAILS ON THE METHODS OF COLLECTION, HANDLING AND RECYCLING OR

1 REUSE OF COVERED ELECTRONIC EQUIPMENT USED BY ELECTRONIC RECYCLERS,
2 DETAILS ON ANY DISASSEMBLY OR PHYSICAL RECOVERY OPERATION TO BE USED,
3 THE LOCATIONS OF ANY SUCH OPERATIONS, AND DETAILS ON THE ELECTRONIC
4 RECYCLER'S COMPLIANCE WITH THE UNITED STATES ENVIRONMENTAL PROTECTION
5 AGENCY'S GUIDE ON ENVIRONMENTALLY SOUND MANAGEMENT OF ELECTRONIC
6 DEVICES;

7 C. ANNUAL STATE SALES DATA OF THE MANUFACTURER'S COVERED ELECTRONIC
8 EQUIPMENT REPORTED BY WEIGHT FOR THE PREVIOUS THREE CALENDAR YEARS;

9 D. A SYSTEM FOR DESTROYING ALL DATA ON ANY COVERED ELECTRONIC EQUIP-
10 MENT COLLECTED, EITHER THROUGH PHYSICAL DESTRUCTION OF THE HARD DRIVE OR
11 THROUGH DATA WIPING TO DEPARTMENT OF DEFENSE STANDARDS (US DOD 5220.22 M
12 - CLEARING AND SANITATION MATRIX);

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

19 F. A LIST OF THE MANUFACTURER'S BRAND NAMES, INCLUDING: (I) ANY BRAND
20 NAME UNDER WHICH THE MANUFACTURER ASSEMBLES OR SUBSTANTIALLY ASSEMBLES,
21 OR HAS ASSEMBLED OR SUBSTANTIALLY ASSEMBLED COVERED ELECTRONIC EQUIP-
22 MENT; (II) ANY BRAND NAME UNDER WHICH THE MANUFACTURER MANUFACTURES AND
23 SELLS, OR HAS MANUFACTURED AND SOLD, COVERED ELECTRONIC EQUIPMENT; (III)
24 ANY BRAND NAME UNDER WHICH THE MANUFACTURER SELLS OR HAS SOLD COVERED
25 ELECTRONIC EQUIPMENT PRODUCED BY ANOTHER PERSON UNDER SUCH MANUFACTUR-
26 ER'S OWN BRAND; (IV) ANY BRAND NAME THAT THE MANUFACTURER OWNS AND
27 LICENSES OR HAS LICENSED TO ANOTHER PERSON FOR USE ON COVERED ELECTRONIC
28 EQUIPMENT; (V) ANY BRAND NAME UNDER WHICH THE MANUFACTURER IMPORTS OR
29 HAS IMPORTED COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; AND
30 (VI) ANY BRAND NAME OF COVERED ELECTRONIC EQUIPMENT OF WHICH THE
31 MANUFACTURER HAS BECOME THE SUCCESSOR-IN-INTEREST; AND

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

34 4. THE DEPARTMENT SHALL APPROVE OR DISAPPROVE A PROPOSED ELECTRONIC
35 WASTE MANAGEMENT PLAN SUBMITTED BY A MANUFACTURER WITHIN ONE HUNDRED
36 EIGHTY DAYS OF ITS SUBMISSION. IF THE DEPARTMENT APPROVES AN ELECTRONIC
37 WASTE MANAGEMENT PLAN, IT SHALL EXPEDITIOUSLY NOTIFY THE MANUFACTURER OF
38 THE APPROVAL IN WRITING. IF THE DEPARTMENT DISAPPROVES AN ELECTRONIC
39 WASTE MANAGEMENT PLAN, IT SHALL EXPEDITIOUSLY NOTIFY THE MANUFACTURER OF
40 THE DISAPPROVAL IN WRITING AND SPECIFY THE REASONS FOR DISAPPROVAL. THE
41 MANUFACTURER SHALL HAVE NINETY DAYS TO RESUBMIT AN ELECTRONIC WASTE
42 MANAGEMENT PLAN AFTER THE DEPARTMENT NOTIFIES THE MANUFACTURER OF ITS
43 DISAPPROVAL. THE DEPARTMENT SHALL THEN APPROVE OR DISAPPROVE A RESUBMIT-
44 TED ELECTRONIC WASTE MANAGEMENT PLAN WITHIN NINETY DAYS OF RESUBMISSION.

45 5. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE, OR ONE HUNDRED EIGHTY
46 DAYS AFTER AN ELECTRONIC WASTE MANAGEMENT PLAN IS APPROVED BY THE
47 DEPARTMENT, WHICHEVER DATE IS LATER, A MANUFACTURER OF COVERED ELECTRON-
48 IC EQUIPMENT MUST FULLY IMPLEMENT THE APPROVED ELECTRONIC WASTE MANAGE-
49 MENT PLAN FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED
50 ELECTRONIC EQUIPMENT PRODUCED BY SUCH MANUFACTURER AND GENERATED AS
51 ELECTRONIC WASTE IN THE STATE.

52 6. A MANUFACTURER MAY SATISFY THE ELECTRONIC WASTE MANAGEMENT PLAN
53 REQUIREMENTS OF THIS SECTION BY AGREEING TO PARTICIPATE IN A COLLECTIVE
54 ELECTRONIC WASTE MANAGEMENT PLAN WITH OTHER MANUFACTURERS. ANY SUCH
55 COLLECTIVE WASTE MANAGEMENT PLAN MUST MEET THE SAME REQUIREMENTS AS AN
56 ELECTRONIC WASTE MANAGEMENT PLAN SUBMITTED BY AN INDIVIDUAL MANUFACTUR-

1 ER. ANY COLLECTIVE ELECTRONIC WASTE MANAGEMENT PLAN MUST INCLUDE A LIST
2 OF MANUFACTURERS THAT ARE PARTICIPATING IN SUCH PLAN ALONG WITH OTHER
3 IDENTIFYING INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT. SUCH PLAN
4 SHALL BE SUBMITTED TO THE DEPARTMENT ALONG WITH A REGISTRATION FEE OF
5 TEN THOUSAND DOLLARS.

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

9 S 27-2607. RETAILER REQUIREMENTS.

10 AT THE POINT OF SALE OF COVERED ELECTRONIC EQUIPMENT, A RETAILER SHALL
11 PROVIDE CONSUMERS WITH INFORMATION, IF ANY, ABOUT THE RETURN OF COVERED
12 ELECTRONIC EQUIPMENT THAT HAS BEEN PROVIDED TO THE RETAILER BY A
13 MANUFACTURER PURSUANT TO THE MANUFACTURER'S IMPLEMENTATION OF ITS ELEC-
14 TRONIC WASTE MANAGEMENT PLAN.

15 S 27-2609. LABELING.

16 BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE OR ONE HUNDRED EIGHTY
17 DAYS AFTER AN ELECTRONIC WASTE MANAGEMENT PLAN IS APPROVED BY THE
18 DEPARTMENT, WHICHEVER DATE IS LATER, A MANUFACTURER MAY NOT OFFER FOR
19 SALE IN THE STATE OF NEW YORK OR DELIVER TO RETAILERS FOR SUBSEQUENT
20 SALE COVERED ELECTRONIC EQUIPMENT UNLESS IT HAS A VISIBLE, PERMANENT
21 LABEL CLEARLY IDENTIFYING THE MANUFACTURER OF THAT EQUIPMENT. IN ADDI-
22 TION, THE MANUFACTURER SHALL PROVIDE A TOLL-FREE TELEPHONE NUMBER AND
23 INTERNET WEBSITE THAT CONSUMERS CAN ACCESS FOR INFORMATION ON HOW
24 COVERED ELECTRONIC EQUIPMENT CAN BE RETURNED FOR RECYCLING OR REUSE FREE
25 OF CHARGE TO THE CONSUMER.

26 S 27-2611. DISPOSAL BAN.

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

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

35 S 27-2613. ENFORCEMENT.

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

40 2. ANY CONSUMER WHO VIOLATES THE PROVISIONS OF SECTION 27-2611 OF THIS
41 TITLE SHALL BE LIABLE FOR A CIVIL PENALTY OF ONE HUNDRED DOLLARS FOR
42 EACH VIOLATION.

43 S 27-2615. MANUFACTURER PENALTIES.

44 1. BEGINNING JANUARY FIRST, TWO THOUSAND ELEVEN, A MANUFACTURER WHO
45 FAILS TO SUBMIT AN ELECTRONIC WASTE MANAGEMENT PLAN AS REQUIRED BY THIS
46 TITLE SHALL BE LIABLE FOR A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER
47 DAY FOR EACH DAY THAT AN ELECTRONIC WASTE MANAGEMENT PLAN IS NOT SUBMIT-
48 TED.

49 2. BEGINNING JANUARY FIRST, TWO THOUSAND ELEVEN, A MANUFACTURER WHO
50 SUBMITS AN ELECTRONIC WASTE MANAGEMENT PLAN THAT IS DISAPPROVED BY THE
51 DEPARTMENT MORE THAN THREE TIMES SHALL BE LIABLE FOR A CIVIL PENALTY OF
52 ONE THOUSAND DOLLARS PER DAY FOR EACH DAY THAT AN ELECTRONIC WASTE
53 MANAGEMENT PLAN IS NOT SUBMITTED AND APPROVED BY THE DEPARTMENT FOLLOW-
54 ING THE DATE OF SUCH THIRD DISAPPROVAL.

55 3. ANY MANUFACTURER WHO VIOLATES ANY PROVISION OF THIS TITLE SHALL BE
56 LIABLE FOR A CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR THE FIRST

1 VIOLATION, TWO THOUSAND FIVE HUNDRED DOLLARS FOR THE SECOND VIOLATION
2 AND FIVE THOUSAND DOLLARS FOR THE THIRD VIOLATION AND SUBSEQUENT
3 VIOLATIONS OF THIS TITLE WITHIN A TWELVE MONTH PERIOD.

4 S 27-2617. REPORTING REQUIREMENTS.

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

28 2. THE DEPARTMENT SHALL SUBMIT A REPORT ON IMPLEMENTATION OF THE TITLE
29 IN THIS STATE TO THE GOVERNOR AND LEGISLATURE BY OCTOBER FIRST, TWO
30 THOUSAND FOURTEEN AND EVERY TWO YEARS THEREAFTER. THE REPORT MUST
31 INCLUDE, AT A MINIMUM, AN EVALUATION OF THE RECYCLING AND REUSE RATES IN
32 THE STATE FOR COVERED ELECTRONIC EQUIPMENT, A DISCUSSION OF COMPLIANCE
33 AND ENFORCEMENT RELATED TO THE REQUIREMENTS OF THIS TITLE AND RECOMMEN-
34 DATIONS FOR ANY CHANGES TO THE SYSTEM OF COLLECTION, HANDLING AND RECY-
35 CLING OR REUSE OF ELECTRONIC EQUIPMENT IN THIS STATE.

36 S 27-2619. PREEMPTION.

37 JURISDICTION IN ALL MATTERS PERTAINING TO ELECTRONIC EQUIPMENT RECYCL-
38 ING IS, BY THIS TITLE, VESTED EXCLUSIVELY IN THE STATE.

39 S 27-2621. CONFIDENTIAL INFORMATION AND TRADE SECRETS.

40 INFORMATION RELATING TO ELECTRONIC EQUIPMENT SUBMITTED TO THE DEPART-
41 MENT UNDER THIS TITLE MAY BE DESIGNATED BY THE PERSON SUBMITTING IT AS
42 BEING ONLY FOR THE CONFIDENTIAL USE OF THE DEPARTMENT, ITS AGENTS AND
43 EMPLOYEES, OTHER STATE AGENCIES, EMPLOYEES OF THE UNITED STATES ENVIRON-
44 MENTAL PROTECTION AGENCY AND THE ATTORNEY GENERAL OF THE STATE, AND ANY
45 POLITICAL SUBDIVISION OF THE STATE AND ITS AGENTS AND EMPLOYEES.

46 S 27-2623. SEVERABILITY.

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

51 S 3. This act shall take effect immediately.