

1317

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. COLTON, ENGLEBRIGHT, GALEF -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to electronic equipment recycling; and to amend the state finance law, in relation to establishing the electronic equipment recycling account within the environmental protection fund

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

1 Section 1. Legislative findings and intent. The legislature finds and
2 declares that electronic equipment which contains priority contaminants
3 that are a cause for concern such as cathode ray tubes, printed circuit
4 boards, batteries, lead and other components can have significant toxi-
5 cological effects on humans and the environment when improperly
6 disposed. The legislature also finds that the potential environmental
7 and public health problems associated with these kinds of electronic
8 equipment can be minimized by requiring the separation of electronic
9 equipment from municipal solid waste and the identification of certain
10 types of electronic equipment that pose an increased threat to public
11 health and the environment, as defined in this act.

12 The legislature also finds that manufacturers bear a responsibility
13 for implementing collection and recycling programs for the electronic
14 equipment that they manufacture. The legislature also finds that
15 manufacturers can play an intricate role in the diversion of electronic
16 equipment from the waste stream by establishing collection, recycling
17 and disassembly centers for the electronic equipment they manufacture.

18 The legislature also finds that jobs are created through disassembly
19 and recycling programs. Therefore, this legislation would provide the
20 dual purpose of protecting the environment and job creation.

21 The legislature further finds that electronic equipment should not be
22 managed as part of municipal solid waste due to their content of one or

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

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1 more toxic materials and high market saturation. The legislature also
2 finds that new alternatives must be sought for the management of elec-
3 tronic equipment.

4 S 2. Short title. This act shall be known and may be cited as the
5 "electronic equipment recycling act of 2009".

6 S 3. Article 27 of the environmental conservation law is amended by
7 adding a new title 29 to read as follows:

8 TITLE 29

9 ELECTRONIC EQUIPMENT RECYCLING

- 10 SECTION 27-2901. DEFINITIONS.
11 27-2903. SCOPE OF PRODUCTS.
12 27-2905. SALES PROHIBITION.
13 27-2907. LABELING REQUIREMENT.
14 27-2909. REGISTRATION AND REPORTING.
15 27-2911. MANUFACTURER RESPONSIBILITY.
16 27-2913. RETAILER RESPONSIBILITY.
17 27-2915. DEPARTMENT RESPONSIBILITY.
18 27-2917. FEES FOR THE COLLECTION OR RECYCLING OF COVERED ELEC-
19 TRONIC DEVICES.
20 27-2919. CONTRACTS FOR COLLECTION, TRANSPORTATION AND RECYCLING
21 OF COVERED ELECTRONIC DEVICES.
22 27-2921. ENVIRONMENTALLY SOUND MANAGEMENT REQUIREMENTS.
23 27-2923. DISPOSAL BAN.
24 27-2925. ENFORCEMENT.
25 27-2927. REGULATORY AUTHORITY.
26 27-2929. DISPOSITION OF FEES AND PENALTIES.
27 27-2931. SEVERABILITY.

28 S 27-2901. DEFINITIONS.

29 AS USED IN THIS TITLE:

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

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

38 3. "CONSUMER" MEANS AN INDIVIDUAL WHO PURCHASES A COVERED ELECTRONIC
39 DEVICE IN A TRANSACTION THAT IS A SALE INCLUDING, BUT NOT LIMITED TO, A
40 BUSINESS, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, GOVERN-
41 MENT AGENCY OR NOT-FOR-PROFIT CORPORATION.

42 4. "COVERED ELECTRONIC DEVICE" (A) MEANS A DESKTOP/PERSONAL COMPUTER,
43 COMPUTER MONITOR, PORTABLE COMPUTER, CATHODE RAY TUBE BASED TELEVISION
44 OR A TELEVISION THAT IS NOT CATHODE RAY TUBE BASED; AND

45 (B) SHALL NOT INCLUDE:

46 (I) A COVERED ELECTRONIC DEVICE THAT IS A PART OF A MOTOR VEHICLE OR
47 ANY COMPONENT PART OF A MOTOR VEHICLE ASSEMBLED BY OR FOR A VEHICLE
48 MANUFACTURER OR FRANCHISED DEALER, INCLUDING REPLACEMENT PARTS FOR USE
49 IN A MOTOR VEHICLE;

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

54 (III) A COVERED ELECTRONIC DEVICE THAT IS CONTAINED WITHIN A CLOTHES
55 WASHER, CLOTHES DRYER, REFRIGERATOR, REFRIGERATOR AND FREEZER, MICROWAVE

1 OVEN, CONVENTIONAL OVEN OR RANGE, DISHWASHER, ROOM AIR CONDITIONER,
2 DEHUMIDIFIER, OR AIR PURIFIER; OR

3 (IV) A TELEPHONE OF ANY TYPE, UNLESS IT CONTAINS A VIDEO DISPLAY AREA
4 GREATER THAN FOUR INCHES, MEASURED DIAGONALLY.

5 5. "COVERED ELECTRONIC RECYCLER" MEANS A RECYCLER DESIGNATED AND
6 APPROVED AS SUCH BY THE DEPARTMENT.

7 6. "MANUFACTURER" MEANS ANY PERSON WHO, IRRESPECTIVE OF THE SELLING
8 TECHNIQUE USED, INCLUDING BY MEANS OF REMOTE SALE:

9 (A) MANUFACTURES COVERED ELECTRONIC DEVICES UNDER ITS OWN BRAND FOR
10 SALE IN THIS STATE;

11 (B) MANUFACTURES COVERED ELECTRONIC DEVICES FOR SALE IN THIS STATE
12 WITHOUT AFFIXING A BRAND;

13 (C) RESELLS IN THIS STATE COVERED ELECTRONIC DEVICES PRODUCED BY OTHER
14 SUPPLIERS UNDER ITS OWN BRAND OR LABEL;

15 (D) IMPORTS OR EXPORTS COVERED ELECTRONIC DEVICES INTO THE UNITED
16 STATES. HOWEVER, IF A COMPANY FROM WHOM AN IMPORTER PURCHASES THE
17 MERCHANDISE HAS A PRESENCE IN THE UNITED STATES AND/OR ASSETS, THAT
18 COMPANY SHALL BE DEEMED TO BE THE MANUFACTURER; OR

19 (E) MANUFACTURES COVERED ELECTRONIC DEVICES, SUPPLIES THEM TO ANY
20 PERSON OR PERSONS WITHIN A DISTRIBUTION NETWORK THAT INCLUDES WHOLE-
21 SALERS OR RETAILERS IN THIS STATE, AND BENEFITS FROM THE SALE IN THIS
22 STATE OF THOSE COVERED ELECTRONIC DEVICES THROUGH THAT DISTRIBUTION
23 NETWORK.

24 7. "MANUFACTURER'S BRANDS" MEANS A MANUFACTURER'S NAME, BRAND NAME OR
25 BRAND LABEL, AND ALL MANUFACTURER'S NAMES, BRAND NAMES AND BRAND LABELS
26 FOR WHICH THE MANUFACTURER HAS LEGAL RESPONSIBILITY, INCLUDING THOSE
27 NAMES, BRAND NAMES, AND BRAND LABELS OF COMPANIES THAT HAVE BEEN
28 ACQUIRED BY THE MANUFACTURER.

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

36 9. "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP, LIMIT-
37 ED LIABILITY COMPANY, CORPORATION, NOT-FOR-PROFIT CORPORATION, ASSOCI-
38 ATION, GOVERNMENTAL ENTITY, PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHOR-
39 ITY.

40 10. "PORTABLE COMPUTER" MEANS A COMPUTER AND VIDEO DISPLAY GREATER
41 THAN FOUR INCHES IN SIZE THAT CAN BE CARRIED AS ONE UNIT BY AN INDIVID-
42 UAL.

43 11. "PURCHASE" MEANS THE TAKING, BY SALE, OF TITLE IN EXCHANGE FOR
44 CONSIDERATION.

45 12. "RECYCLING" MEANS ANY PROCESS BY WHICH COVERED ELECTRONIC DEVICES
46 THAT WOULD OTHERWISE BECOME SOLID WASTE OR HAZARDOUS WASTE ARE
47 COLLECTED, SEPARATED AND PROCESSED TO BE RETURNED TO USE IN THE FORM OF
48 RAW MATERIALS OR PRODUCTS, IN ACCORDANCE WITH ENVIRONMENTAL STANDARDS
49 ESTABLISHED BY THE DEPARTMENT.

50 13. "REGISTRANT" MEANS A MANUFACTURER OF COVERED ELECTRONIC DEVICES
51 THAT IS IN FULL COMPLIANCE WITH THE REQUIREMENTS OF THIS TITLE.

52 14. "RETAIL SALES" MEANS SALES OF PRODUCTS THROUGH SALES OUTLETS, VIA
53 THE INTERNET, MAIL ORDER OR ANY OTHER MEANS, WHETHER OR NOT THE SELLER
54 HAS A PHYSICAL PRESENCE IN THIS STATE.

1 15. "RETAILER" MEANS A PERSON WHO OWNS OR OPERATES A BUSINESS THAT
2 SELLS NEW COVERED ELECTRONIC DEVICES IN THIS STATE BY ANY MEANS TO A
3 CONSUMER.

4 16. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE
5 INCLUDING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH SALES
6 OUTLETS, CATALOGS OR THE INTERNET, OR ANY OTHER, SIMILAR ELECTRONIC
7 MEANS, AND EXCLUDING LEASES.

8 17. "STATE RECYCLING RATE" MEANS THE RATIO OF THE TOTAL WEIGHT OF
9 OVERALL RETURNS OF COVERED ELECTRONIC DEVICES IN THE STATE DURING THE
10 PREVIOUS CALENDAR YEAR TO THE TOTAL WEIGHT OF OVERALL SALES OF COVERED
11 ELECTRONIC DEVICES IN THE STATE DURING THE PREVIOUS CALENDAR YEAR.

12 18. "TELEVISION" MEANS A STAND-ALONE DISPLAY SYSTEM CONTAINING A CATH-
13 ODE RAY TUBE OR ANY OTHER TYPE OF DISPLAY PRIMARILY INTENDED TO RECEIVE
14 VIDEO PROGRAMMING VIA BROADCAST, HAVING A VIEWABLE AREA GREATER THAN
15 FOUR INCHES WHEN MEASURED DIAGONALLY, ABLE TO ADHERE TO STANDARD CONSUM-
16 ER VIDEO FORMATS SUCH AS PAL, SECAM, NTSC OR HDTV AND HAVING THE CAPA-
17 BILITY OF SELECTING DIFFERENT BROADCAST CHANNELS AND SUPPORT SOUND CAPA-
18 BILITY.

19 S 27-2903. SCOPE OF PRODUCTS.

20 1. THE PROVISIONS OF THIS TITLE SHALL APPLY TO ALL COVERED ELECTRONIC
21 DEVICES.

22 2. THE COMMISSIONER MAY DESIGNATE ADDITIONAL COVERED ELECTRONIC
23 DEVICES WHICH SHALL BE SUBJECT TO THE PROVISIONS OF THIS TITLE, BASED
24 UPON SUFFICIENT EVIDENCE OF THE NEED TO REGULATE THE COLLECTION, TRANS-
25 PORTATION AND RECYCLING OF SUCH DEVICES.

26 S 27-2905. SALES PROHIBITION.

27 1. ANY MANUFACTURER WHO IS NOT IN FULL COMPLIANCE WITH THE PROVISIONS
28 OF THIS TITLE SHALL BE PROHIBITED FROM OFFERING A COVERED ELECTRONIC
29 DEVICE FOR SALE IN THIS STATE.

30 2. NO PERSON SHALL OFFER FOR SALE ANY NEW COVERED ELECTRONIC DEVICE
31 FROM A MANUFACTURER THAT IS NOT IN FULL COMPLIANCE WITH THE PROVISIONS
32 OF THIS TITLE. THE DEPARTMENT SHALL MAINTAIN AND DISSEMINATE A LIST OF
33 ALL MANUFACTURERS WHICH ARE IN COMPLIANCE WITH THE PROVISIONS OF THIS
34 TITLE. SUCH LIST SHALL BE POSTED ON THE DEPARTMENT INTERNET WEBSITE AND
35 SHALL BE UPDATED ON A MONTHLY BASIS. EVERY PERSON WHO SELLS OR BRINGS
36 INTO THIS STATE FOR SALE ANY COVERED ELECTRONIC PRODUCT, SHALL REVIEW
37 SUCH LIST PRIOR TO SUCH SALE. A PERSON SHALL BE DEEMED TO HAVE COMPLIED
38 WITH SUCH RESPONSIBILITY IF, ON THE DATE A COVERED ELECTRONIC DEVICE IS
39 ORDERED FROM A MANUFACTURER OR ITS AGENT, THE MANUFACTURER WAS INCLUDED
40 ON THE LIST MAINTAINED BY THE DEPARTMENT ON ITS WEBSITE.

41 S 27-2907. LABELING REQUIREMENT.

42 NO MANUFACTURER OR RETAILER SHALL SELL OR OFFER FOR SALE ANY COVERED
43 ELECTRONIC DEVICE TO ANY CONSUMER UNLESS THE COVERED ELECTRONIC DEVICE
44 IS LABELED WITH THE MANUFACTURER'S BRAND, AND SUCH LABEL IS PERMANENTLY
45 AFFIXED AND READILY VISIBLE.

46 S 27-2909. REGISTRATION AND REPORTING.

47 1. MANUFACTURERS OF COVERED ELECTRONIC DEVICES SHALL ANNUALLY REPORT
48 TO THE DEPARTMENT, ON OR BEFORE JANUARY THIRTIETH, THE TOTAL WEIGHT OF
49 PRODUCTS SOLD IN THE STATE THE PREVIOUS CALENDAR YEAR. IN LIEU OF
50 PROVIDING THE TOTAL WEIGHT OF PRODUCTS SOLD IN THE STATE THE PREVIOUS
51 CALENDAR YEAR, A MANUFACTURER MAY REQUEST THAT THE DEPARTMENT CALCULATE
52 THE TOTAL WEIGHT OF PRODUCTS SOLD IN THE STATE BY USING PRORATED
53 NATIONAL SALES DATA BASED ON STATE POPULATION.

54 2. EACH MANUFACTURER OF COVERED ELECTRONIC DEVICES SHALL REGISTER
55 ANNUALLY WITH THE DEPARTMENT AND PAY A REGISTRATION FEE OF FIVE THOUSAND
56 DOLLARS.

1 S 27-2911. MANUFACTURER RESPONSIBILITY.
2 1. MANUFACTURERS OF COVERED ELECTRONIC DEVICES SHALL SUBMIT AN ADDI-
3 TIONAL FEE BASED ON SALES IN THE STATE TO THE DEPARTMENT. THE FEE SHALL
4 BE THE STATE RECYCLING RATE MULTIPLIED BY THE WEIGHT OF SALES OF THE
5 MANUFACTURER'S COVERED ELECTRONIC DEVICES IN THE STATE DURING THE PREVI-
6 OUS CALENDAR YEAR, MULTIPLIED BY NO MORE THAN FIFTY CENTS PER POUND.
7 2. IN LIEU OF PAYMENT OF THE FEE SET FORTH IN SUBDIVISION ONE OF THIS
8 SECTION, A MANUFACTURER OR A GROUP OF MANUFACTURERS MAY SUBMIT A PLAN TO
9 COLLECT, TRANSPORT AND RECYCLE COVERED ELECTRONIC DEVICES, PROVIDED THAT
10 THE PLAN REPRESENTS AT LEAST FIVE PERCENT OF TOTAL COVERED ELECTRONIC
11 DEVICES EXPECTED TO BE COLLECTED ANNUALLY IN THE STATE.
12 3. AN INDIVIDUAL MANUFACTURER SUBMITTING A PLAN MUST COLLECT, TRANS-
13 PORT AND RECYCLE A QUANTITY OF COVERED ELECTRONIC DEVICES EQUAL TO THE
14 WEIGHT OF SALES OF THE MANUFACTURER'S COVERED ELECTRONIC DEVICES IN THE
15 STATE DURING THE PREVIOUS CALENDAR YEAR MULTIPLIED BY THE STATE RECYCL-
16 ING RATE.
17 4. A GROUP OF MANUFACTURERS JOINTLY SUBMITTING A PLAN SHALL COLLECT,
18 TRANSPORT AND RECYCLE THE SUM OF THE OBLIGATIONS OF EACH PARTICIPATING
19 MANUFACTURER.
20 5. EACH PLAN REQUIRED BY THIS SECTION SHALL BE FILED WITH A MANUFAC-
21 Turer's ANNUAL REGISTRATION, AND SHALL INCLUDE AT A MINIMUM:
22 (A) METHODS THAT WILL BE USED TO COLLECT THE COVERED ELECTRONIC
23 DEVICES INCLUDING THE NAME AND LOCATIONS OF ALL COLLECTION AND CONSOL-
24 IDATION POINTS;
25 (B) AN ESTIMATE OF THE AMOUNT OF COVERED ELECTRONIC DEVICES THAT WILL
26 BE COLLECTED ANNUALLY;
27 (C) THE PROCESSES AND METHODS THAT WILL BE USED TO RECYCLE RECOVERED
28 COVERED ELECTRONIC DEVICES INCLUDING A DESCRIPTION OF THE DISASSEMBLY,
29 PHYSICAL RECOVERY OPERATION (E.G., CRUSHING, SHREDDING, GRINDING, GLASS
30 TO GLASS RECYCLING) AND/OR OTHER OPERATIONS THAT WILL BE USED, INCLUDING
31 THE NAME AND LOCATION OF ALL FACILITIES TO BE UTILIZED;
32 (D) DOCUMENTATION OF AUDITS OF EACH PROCESSOR USED IN THE PLAN AND
33 COMPLIANCE WITH PROCESSING RULES ESTABLISHED PURSUANT TO SECTION 27-2927
34 OF THIS TITLE;
35 (E) A DESCRIPTION OF THE ACCOUNTING AND REPORTING SYSTEMS THAT WILL BE
36 EMPLOYED TO TRACK PROGRESS TOWARD FULFILLING THE PLAN'S OBLIGATIONS;
37 (F) MEANS THAT WILL BE UTILIZED TO PUBLICIZE THE COLLECTION OPPORTU-
38 NITIES;
39 (G) THE INTENTION OF THE REGISTRANT TO FULFILL ITS OBLIGATIONS THROUGH
40 OPERATION OF ITS OWN PROGRAM, EITHER INDIVIDUALLY OR IN PARTNERSHIP WITH
41 OTHER MANUFACTURERS; AND
42 (H) THE AMOUNT OF COVERED ELECTRONIC DEVICES COLLECTED, TRANSPORTED
43 AND RECYCLED THE PREVIOUS CALENDAR YEAR.
44 6. UPON APPROVAL OF A PLAN BY THE DEPARTMENT, THE MANUFACTURER'S
45 PAYMENT OF ANNUAL FEES BASED UPON SALES SHALL BE WAIVED. THE DEPARTMENT
46 MAY REJECT A PLAN, IN PART OR WHOLE, AND IMPOSE ADDITIONAL REQUIREMENTS
47 AS A CONDITION OF APPROVAL.
48 7. IF A MANUFACTURER FAILS TO COMPLY WITH ALL THE TERMS AND CONDITIONS
49 OF ITS APPROVED PLAN, IT SHALL BE REQUIRED TO SUBMIT TO THE DEPARTMENT A
50 PAYMENT TO COVER THE COST OF COLLECTING, TRANSPORTING AND RECYCLING THE
51 UNMET PORTION OF ITS OBLIGATION. SUCH PAYMENT SHALL BE EQUAL TO THE
52 QUANTITY OF THE OUTSTANDING PORTION, IN POUNDS, MULTIPLIED BY NOT MORE
53 THAN FIFTY CENTS.
54 8. MANUFACTURERS THAT COLLECT, TRANSPORT AND RECYCLE IN EXCESS OF
55 THEIR OBLIGATION UNDER THEIR APPROVED PLAN MAY SELL CREDITS TO ANOTHER

1 REGISTRANT OR APPLY SUCH EXCESS TO THE FOLLOWING CALENDAR YEAR'S RECYCL-
2 ING OBLIGATION.

3 S 27-2913. RETAILER RESPONSIBILITY.

4 A RETAILER SHALL CLEARLY POST AND PROVIDE INFORMATION PROVIDED BY THE
5 DEPARTMENT THAT DESCRIBES WHERE AND HOW TO RECYCLE COVERED ELECTRONIC
6 DEVICES AND OPPORTUNITIES AND LOCATIONS FOR THE COLLECTION OR RETURN OF
7 SUCH DEVICES, THROUGH THE USE OF A TOLL-FREE TELEPHONE NUMBER AND WEB
8 SITE, INFORMATION INCLUDED IN THE PACKAGING OR INFORMATION PROVIDED
9 ACCOMPANYING THE SALE OF THE COVERED ELECTRONIC DEVICES. THIS INFORMA-
10 TION SHALL BE PROVIDED IN CLEAR WRITTEN FORM IN ENGLISH AND ANY OTHER
11 LANGUAGES DEEMED TO BE PRIMARY LANGUAGES BY THE DEPARTMENT OF EDUCATION.
12 S 27-2915. DEPARTMENT RESPONSIBILITY.

13 1. ANNUALLY, ON OR BEFORE FEBRUARY FIFTEENTH, THE DEPARTMENT SHALL
14 ESTABLISH THE STATE RECYCLING RATE, BY CALCULATING THE RATIO OF TOTAL
15 WEIGHT OF OVERALL RETURNS OF COVERED ELECTRONIC DEVICES IN THE STATE
16 DURING THE PREVIOUS CALENDAR YEAR TO TOTAL WEIGHT OF OVERALL SALES OF
17 COVERED ELECTRONIC DEVICES IN THE STATE DURING THE PREVIOUS CALENDAR
18 YEAR.

19 2. ANNUALLY, ON OR BEFORE MARCH FIRST, THE DEPARTMENT SHALL PROVIDE
20 EACH REGISTRANT WITH ITS RESPONSIBILITY IN POUNDS FOR THAT YEAR.

21 3. THE DEPARTMENT SHALL RECEIVE ALL FEES IMPOSED PURSUANT TO THIS
22 TITLE.

23 4. THE DEPARTMENT SHALL ORGANIZE, ADMINISTER AND ENSURE THAT NOT LESS
24 THAN ONE ELECTRONIC DEVICE COLLECTION OPPORTUNITY IS AVAILABLE AT LEAST
25 FIVE DAYS A WEEK IN EACH COUNTY IN THE STATE, AND IN SUCH MANNER AS TO
26 BE CONVENIENT, TO THE MAXIMUM EXTENT FEASIBLE, TO ALL CONSUMERS IN THE
27 COUNTY.

28 5. THE DEPARTMENT SHALL ENSURE THAT COLLECTION SITES DO NOT PLACE
29 LIMITS ON THE NUMBER OF COVERED ELECTRONIC DEVICES PERMITTED FOR
30 DROP-OFF BY CONSUMERS.

31 6. THE DEPARTMENT SHALL ENCOURAGE THE USE OF EXISTING COLLECTION AND
32 CONSOLIDATION INFRASTRUCTURES FOR HANDLING COVERED ELECTRONIC DEVICES TO
33 THE EXTENT THAT SUCH INFRASTRUCTURE IS ACCESSIBLE ON A REGULAR AND ONGO-
34 ING BASIS, IS COST EFFECTIVE AND COMPLIES WITH THE ENVIRONMENTALLY SOUND
35 MANAGEMENT RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS TITLE.

36 7. THE DEPARTMENT SHALL ORGANIZE, CONDUCT AND COORDINATE PUBLIC
37 OUTREACH.

38 8. THE DEPARTMENT SHALL USE ALL MONEYS APPROPRIATED FROM THE ELECTRON-
39 IC EQUIPMENT RECYCLING ACCOUNT FOR THE SOLE PURPOSE OF IMPLEMENTING THE
40 PROVISIONS OF THIS TITLE.

41 9. THE DEPARTMENT SHALL ESTABLISH A PLAN THAT ESTABLISHES THE PER
42 CAPITA COLLECTION AND RECYCLING GOALS FOR EACH SERVICE AREA OF THE
43 STATE, AND IDENTIFIES ANY NECESSARY STATE ACTION TO EXPAND COLLECTION
44 OPPORTUNITIES TO ACHIEVE THE PER CAPITA COLLECTION AND RECYCLING GOALS.
45 THE PLAN SHALL BE POSTED ON THE DEPARTMENT'S INTERNET WEBSITE. SUCH PLAN
46 SHALL INCLUDE:

47 (A) A LIST OF ALL PARTIES WHOM THE DEPARTMENT HAS DESIGNATED AS
48 APPROVED TO RECEIVE PAYMENTS, THE AMOUNT OF PAYMENTS IT HAS MADE TO
49 THOSE PARTIES, AND THE PURPOSE OF THOSE PAYMENTS;

50 (B) THE TOTAL AMOUNT OF COVERED ELECTRONIC DEVICES COLLECTED IN THE
51 STATE THE PREVIOUS CALENDAR YEAR;

52 (C) PROGRESS TOWARD ACHIEVING THE OVERALL ANNUAL TOTAL RECOVERY AND
53 RECYCLING GOALS DESCRIBED IN THE PLAN;

54 (D) A COMPLETE LISTING OF ALL COLLECTION SITES OPERATING IN THE STATE
55 IN THE PRIOR CALENDAR YEAR, THE PARTIES WHO OPERATED THEM, AND THE
56 AMOUNT OF MATERIAL BY WEIGHT COLLECTED AT EACH SITE;

1 (E) AN EVALUATION OF THE EFFECTIVENESS OF THE EDUCATION AND OUTREACH
2 PROGRAM; AND

3 (F) AN EVALUATION OF THE EXISTING COLLECTION AND PROCESSING INFRA-
4 STRUCTURE IN EACH COUNTY.

5 10. THE DEPARTMENT SHALL MAINTAIN AND UPDATE AN INTERNET WEBSITE AND A
6 TOLL-FREE TELEPHONE NUMBER WITH A CURRENT LISTING OF WHERE CONSUMERS CAN
7 BRING COVERED ELECTRONIC DEVICES FOR RECYCLING.

8 S 27-2917. FEES FOR THE COLLECTION OR RECYCLING OF COVERED ELECTRONIC
9 DEVICES.

10 NO FEE OR CHARGE SHALL BE IMPOSED UPON ANY CONSUMER FOR THE
11 COLLECTION, TRANSPORTATION OR RECYCLING OF COVERED ELECTRONIC DEVICES BY
12 ANY PERSON OR ENTITY PARTICIPATING IN OR BEING COMPENSATED BY THE STATE-
13 WIDE PROGRAM OPERATED AND FUNDED BY THE DEPARTMENT OR BY A REGISTRANT
14 FOR RECYCLING OR TAKE-BACK OR FOR ANY OTHER PURPOSE RELATED TO THE
15 COLLECTION, TRANSPORTATION OR RECYCLING OF COVERED ELECTRONIC DEVICES.

16 S 27-2919. CONTRACTS FOR COLLECTION, TRANSPORTATION AND RECYCLING OF
17 COVERED ELECTRONIC DEVICES.

18 THE COMMISSIONER MAY ENTER INTO CONTRACTS WITH MUNICIPALITIES,
19 NOT-FOR-PROFIT CORPORATIONS, AND FOR-PROFIT ORGANIZATIONS AND COMPANIES
20 FOR THE COLLECTION, TRANSPORTATION AND RECYCLING OF COVERED ELECTRONIC
21 DEVICES. CONTRACTS SHALL INCLUDE PROVISIONS TO ENSURE THE FOLLOWING:

22 1. THE COVERED ELECTRONIC DEVICES ARE COLLECTED FROM A CONSUMER
23 LOCATED IN THE STATE;

24 2. THE COLLECTION, TRANSPORTATION AND RECYCLING OF THE COVERED ELEC-
25 TRONIC DEVICES ARE CONDUCTED IN ACCORDANCE WITH ALL LOCAL, STATE AND
26 FEDERAL LAWS;

27 3. NO FEES OR COSTS ARE CHARGED TO THE CONSUMER; AND

28 4. RECORDKEEPING TO ACCOUNT FOR ALL COVERED ELECTRONIC DEVICES
29 ACCEPTED AND THE DISPOSITION OF SUCH DEVICES.

30 S 27-2921. ENVIRONMENTALLY SOUND MANAGEMENT REQUIREMENTS.

31 1. ALL COVERED ELECTRONIC DEVICES COLLECTED PURSUANT TO THIS TITLE
32 SHALL BE RECYCLED IN A MANNER THAT IS IN COMPLIANCE WITH ALL APPLICABLE
33 FEDERAL, STATE AND LOCAL LAWS, RULES AND REGULATIONS.

34 2. THE DEPARTMENT SHALL ESTABLISH ENVIRONMENTALLY SOUND MANAGEMENT
35 REQUIREMENTS FOR COLLECTORS, TRANSPORTERS AND RECYCLERS WHO ARE ELIGIBLE
36 TO RECEIVE FUNDS FROM THE DEPARTMENT. ALL SUCH ENTITIES SHALL, AT A
37 MINIMUM, DEMONSTRATE COMPLIANCE WITH THE UNITED STATES ENVIRONMENTAL
38 PROTECTION AGENCY'S GUIDE ON ENVIRONMENTALLY SOUND MANAGEMENT OF ELEC-
39 TRONIC DEVICES, IN ADDITION TO ANY OTHER PROVISION OF STATE AND FEDERAL
40 LAW.

41 3. THE DEPARTMENT SHALL MAINTAIN A WEBSITE WHICH SHALL INCLUDE A LIST
42 OF ALL ENTITIES THAT ARE IN COMPLIANCE WITH THE REQUIREMENTS ESTABLISHED
43 PURSUANT TO THIS SECTION.

44 S 27-2923. DISPOSAL BAN.

45 NO PERSON SHALL PLACE OR DISPOSE OF ANY COVERED ELECTRONIC DEVICE OR
46 ANY COMPONENT THEREOF IN ANY SOLID WASTE DISPOSAL FACILITY.

47 S 27-2925. ENFORCEMENT.

48 1. THE DEPARTMENT SHALL ENFORCE THE PROVISIONS OF THIS TITLE PURSUANT
49 TO THE PROVISIONS OF THIS CHAPTER.

50 2. THE VIOLATIONS OF THIS TITLE SHALL INCLUDE, BUT NOT BE LIMITED TO:

51 (A) THE SALE OF ANY COVERED ELECTRONIC DEVICE WHICH DOES NOT COMPLY
52 WITH THE PROVISIONS OF THIS TITLE;

53 (B) APPLICATION FOR COMPENSATION FOR THE RECYCLING OF ANY COVERED
54 ELECTRONIC DEVICE NOT COLLECTED WITHIN THE STATE;

55 (C) USE OF A QUALIFIED COLLECTION PROGRAM TO RECYCLE ANY COVERED ELEC-
56 TRONIC DEVICE NOT DISCARDED WITHIN THE STATE; AND

1 (D) THE KNOWING FAILURE TO REPORT OR ACCURATELY REPORT ANY DATA
2 REQUIRED TO BE REPORTED TO THE DEPARTMENT BY THIS TITLE.

3 S 27-2927. REGULATORY AUTHORITY.

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

6 S 27-2929. DISPOSITION OF FEES AND PENALTIES.

7 ALL FEES AND PENALTIES COLLECTED PURSUANT TO THE PROVISIONS OF THIS
8 TITLE SHALL BE PAID TO THE COMPTROLLER FOR DEPOSIT TO THE CREDIT OF THE
9 ELECTRONIC EQUIPMENT RECYCLING ACCOUNT OF THE ENVIRONMENTAL PROTECTION
10 FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE
11 LAW.

12 S 27-2931. SEVERABILITY.

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

17 S 4. Subdivision 2 of section 92-s of the state finance law, as added
18 by chapter 610 of the laws of 1993, is amended to read as follows:

19 2. a. The comptroller shall establish the following separate and
20 distinct accounts within the environmental protection fund:

21 (i) solid waste account;

22 (ii) parks, recreation and historic preservation account;

23 (iii) open space account; [and]

24 (iv) environmental protection transfer account[.]; AND

25 (V) ELECTRONIC EQUIPMENT RECYCLING ACCOUNT.

26 b. All monies received by the comptroller for deposit in the environ-
27 mental protection fund, EXCEPT THOSE MONIES COLLECTED FROM FEES AND
28 PENALTIES IMPOSED PURSUANT TO TITLE TWENTY-NINE OF ARTICLE TWENTY-SEVEN
29 OF THE ENVIRONMENTAL CONSERVATION LAW, shall be deposited first to the
30 credit of the environmental protection transfer account. ALL MONIES
31 RECEIVED BY THE COMPTROLLER FOR DEPOSIT IN THE ENVIRONMENTAL PROTECTION
32 FUND FROM FEES AND PENALTIES COLLECTED PURSUANT TO TITLE TWENTY-NINE OF
33 ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW SHALL BE
34 DEPOSITED TO THE CREDIT OF THE ELECTRONIC EQUIPMENT RECYCLING ACCOUNT.
35 No monies shall be expended from any such account for any project except
36 pursuant to appropriation by the legislature.

37 S 5. Subdivision 3 of section 92-s of the state finance law, as
38 amended by chapter 145 of the laws of 2004, is amended to read as
39 follows:

40 3. Such fund shall consist of the amount of revenue collected within
41 the state from the amount of revenue, interest and penalties deposited
42 pursuant to section fourteen hundred twenty-one of the tax law, THE
43 AMOUNT OF FEES AND PENALTIES RECEIVED PURSUANT TO TITLE TWENTY-NINE OF
44 ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW, the amount
45 of fees and penalties received from easements or leases pursuant to
46 subdivision fourteen of section seventy-five of the public lands law and
47 the money received as annual service charges pursuant to section four
48 hundred four-1 of the vehicle and traffic law, all moneys required to be
49 deposited therein from the contingency reserve fund pursuant to section
50 two hundred ninety-four of chapter fifty-seven of the laws of nineteen
51 hundred ninety-three, all moneys required to be deposited pursuant to
52 section thirteen of chapter six hundred ten of the laws of nineteen
53 hundred ninety-three, repayments of loans made pursuant to section
54 54-0511 of the environmental conservation law, all moneys to be deposit-
55 ed from the Northville settlement pursuant to section one hundred twen-
56 ty-four of chapter three hundred nine of the laws of nineteen hundred

1 ninety-six, provided however, that such moneys shall only be used for
2 the cost of the purchase of private lands in the core area of the
3 central Suffolk pine barrens pursuant to a consent order with the North-
4 ville industries signed on October thirteenth, nineteen hundred ninety-
5 four and the related resource restoration and replacement plan, the
6 amount of penalties required to be deposited therein by section 71-2724
7 of the environmental conservation law, and all other moneys credited or
8 transferred thereto from any other fund or source pursuant to law. All
9 such revenue shall be initially deposited into the environmental
10 protection fund, for application as provided in subdivision [five] SIX
11 of this section.

12 S 6. Subdivision 6 of section 92-s of the state finance law is amended
13 by adding a new paragraph (f) to read as follows:

14 (F) MONEYS FROM THE ELECTRONIC EQUIPMENT RECYCLING ACCOUNT SHALL BE
15 MADE AVAILABLE, PURSUANT TO APPROPRIATION, TO THE DEPARTMENT OF ENVIRON-
16 MENTAL CONSERVATION TO BE USED SOLELY FOR THE PURPOSES OF IMPLEMENTING
17 AND ENFORCING THE PROVISIONS OF TITLE TWENTY-NINE OF ARTICLE TWENTY-SEV-
18 EN OF THE ENVIRONMENTAL CONSERVATION LAW.

19 S 7. This act shall take effect one year after it shall have become a
20 law, except that:

21 (a) section 27-2923 of the environmental conservation law, as added by
22 section three of this act, shall take effect two years after the effec-
23 tive date of this act; and

24 (b) the department of environmental conservation is immediately
25 authorized to develop any rules and regulations necessary to implement
26 the provisions of this act.