

2512

2009-2010 Regular Sessions

I N S E N A T E

February 23, 2009

Introduced by Sen. THOMPSON -- 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.

23 2. "COMPUTER" MEANS AN ELECTRONIC, MAGNETIC, OPTICAL, ELECTROCHEMICAL
24 OR OTHER HIGH-SPEED DATA PROCESSING DEVICE PERFORMING A LOGICAL, ARITH-

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

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1 METIC OR STORAGE FUNCTION, AND MAY INCLUDE BOTH A COMPUTER CENTRAL PROC-
2 ESSING UNIT AND A MONITOR; BUT SUCH TERM SHALL NOT INCLUDE AN AUTOMATED
3 TYPEWRITER OR TYPESETTER, A PORTABLE HAND-HELD CALCULATOR, A PORTABLE
4 DIGITAL ASSISTANT, OR OTHER SIMILAR DEVICE.

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

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

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

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

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

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

1 FACTURES OR HAS MANUFACTURED COVERED ELECTRONIC EQUIPMENT FOR SALE IN
2 THE STATE WITHOUT AFFIXING A BRAND NAME.

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

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

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

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

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

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

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

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

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

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

51 S 27-2603. MANUFACTURER COLLECTION.

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

1 AND WHICH HAS BEEN ASSEMBLED, MANUFACTURED OR IMPORTED BY SUCH MANUFAC-
2 Turer, OR HAS BEEN SOLD UNDER SUCH MANUFACTURER'S BRAND NAME.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 OF MANUFACTURERS THAT ARE PARTICIPATING IN SUCH PLAN ALONG WITH OTHER
2 IDENTIFYING INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT. SUCH PLAN
3 SHALL BE SUBMITTED TO THE DEPARTMENT ALONG WITH A REGISTRATION FEE OF
4 TEN THOUSAND DOLLARS.

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

8 S 27-2607. RETAILER REQUIREMENTS.

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

14 S 27-2609. LABELING.

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

25 S 27-2611. DISPOSAL BAN.

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

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

34 S 27-2613. ENFORCEMENT.

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

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

42 S 27-2615. MANUFACTURER PENALTIES.

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

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

54 3. ANY MANUFACTURER WHO VIOLATES ANY PROVISION OF THIS TITLE SHALL BE
55 LIABLE FOR A CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR THE FIRST
56 VIOLATION, TWO THOUSAND FIVE HUNDRED DOLLARS FOR THE SECOND VIOLATION

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

3 S 27-2617. REPORTING REQUIREMENTS.

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

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

35 S 27-2619. PREEMPTION.

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

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

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

45 S 27-2623. SEVERABILITY.

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

50 S 3. This act shall take effect immediately.