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

993

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:

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

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

TITLE 26

ELECTRONIC EQUIPMENT RECYCLING AND REUSE

SECTION 27-2601. DEFINITIONS.
27-2603. MANUFACTURER COLLECTION.
27-2605. MANUFACTURER ELECTRONIC WASTE MANAGEMENT PLAN.
27-2607. RETAILER REQUIREMENTS.
27-2609. LABELING.
27-2611. DISPOSAL BAN.
27-2613. ENFORCEMENT.
27-2615. MANUFACTURER PENALTIES.
27-2617. REPORTING REQUIREMENTS.
27-2619. PREEMPTION
27-2621. CONFIDENTIAL INFORMATION AND TRADE SECRETS.
27-2623. SEVERABILITY.

S 27-2601. DEFINITIONS.

AS USED IN THIS TITLE:

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

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

LBD02951-01-9

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

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

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

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

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

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

8. "MANUFACTURER" MEANS A PERSON WHO: (A) ASSEMBLES OR SUBSTANTIALLY ASSEMBLES, OR HAS ASSEMBLED OR SUBSTANTIALLY ASSEMBLED, COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; (B) MANUFACTURES OR HAS MANUFACTURED COVERED ELECTRONIC EQUIPMENT UNDER ITS OWN BRAND NAME OR UNDER ANY OTHER BRAND NAME FOR SALE IN THE STATE; (C) SELLS OR HAS SOLD, UNDER ITS OWN BRAND NAME, COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (D) OWNS A BRAND NAME THAT IT LICENSES OR HAS LICENSED TO ANOTHER PERSON FOR USE ON COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (E) IMPORTS OR HAS

IMPORTED COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; (F) MANUFACTURES OR HAS MANUFACTURED COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE WITHOUT AFFIXING A BRAND NAME.

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

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

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

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

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

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

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

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

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

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

S 27-2603. MANUFACTURER COLLECTION.

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

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

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

S 27-2605. MANUFACTURER ELECTRONIC WASTE MANAGEMENT PLAN.

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

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

2. NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, A MANUFACTURER SHALL DEVELOP AND SUBMIT TO THE DEPARTMENT AN ELECTRONIC WASTE MANAGEMENT PLAN FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT AND ORPHAN WASTE. ANY PERSON WHO BECOMES A MANUFACTURER ON OR AFTER JULY FIRST, TWO THOUSAND ELEVEN SHALL SUBMIT TO THE DEPARTMENT AN ELECTRONIC WASTE MANAGEMENT PLAN FOR THE COLLECTION, HANDLING, AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT AND ORPHAN WASTE PRIOR TO SELLING ANY COVERED ELECTRONIC EQUIPMENT IN THE STATE. THE MANUFACTURER SHALL NOT IMPOSE A FEE ON CONSUMERS FOR THE COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC EQUIPMENT.

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

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

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

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

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

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

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

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

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

4. THE DEPARTMENT SHALL APPROVE OR DISAPPROVE A PROPOSED ELECTRONIC WASTE MANAGEMENT PLAN SUBMITTED BY A MANUFACTURER WITHIN ONE HUNDRED EIGHTY DAYS OF ITS SUBMISSION. IF THE DEPARTMENT APPROVES AN ELECTRONIC WASTE MANAGEMENT PLAN, IT SHALL EXPEDITIOUSLY NOTIFY THE MANUFACTURER OF THE APPROVAL IN WRITING. IF THE DEPARTMENT DISAPPROVES AN ELECTRONIC WASTE MANAGEMENT PLAN, IT SHALL EXPEDITIOUSLY NOTIFY THE MANUFACTURER OF THE DISAPPROVAL IN WRITING AND SPECIFY THE REASONS FOR DISAPPROVAL. THE MANUFACTURER SHALL HAVE NINETY DAYS TO RESUBMIT AN ELECTRONIC WASTE MANAGEMENT PLAN AFTER THE DEPARTMENT NOTIFIES THE MANUFACTURER OF ITS DISAPPROVAL. THE DEPARTMENT SHALL THEN APPROVE OR DISAPPROVE A RESUBMITTED ELECTRONIC WASTE MANAGEMENT PLAN WITHIN NINETY DAYS OF RESUBMISSION.

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

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

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

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

S 27-2607. RETAILER REQUIREMENTS.

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

S 27-2609. LABELING.

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

S 27-2611. DISPOSAL BAN.

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

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

S 27-2613. ENFORCEMENT.

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

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

S 27-2615. MANUFACTURER PENALTIES.

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

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

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

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

S 27-2617. REPORTING REQUIREMENTS.

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

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

S 27-2619. PREEMPTION.

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

S 27-2621. CONFIDENTIAL INFORMATION AND TRADE SECRETS.

INFORMATION RELATING TO ELECTRONIC EQUIPMENT SUBMITTED TO THE DEPARTMENT UNDER THIS TITLE MAY BE DESIGNATED BY THE PERSON SUBMITTING IT AS BEING ONLY FOR THE CONFIDENTIAL USE OF THE DEPARTMENT, ITS AGENTS AND EMPLOYEES, OTHER STATE AGENCIES, EMPLOYEES OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE ATTORNEY GENERAL OF THE STATE, AND ANY POLITICAL SUBDIVISION OF THE STATE AND ITS AGENTS AND EMPLOYEES.

S 27-2623. SEVERABILITY.

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

S 3. This act shall take effect immediately.