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

995

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 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:

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

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

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

The legislature further finds that electronic equipment should not be 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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more toxic materials and high market saturation. The legislature also finds that new alternatives must be sought for the management of electronic equipment.

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

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

TITLE 29

ELECTRONIC EQUIPMENT RECYCLING

SECTION 27-2901. DEFINITIONS.
27-2903. SCOPE OF PRODUCTS.
27-2905. SALES PROHIBITION.
27-2907. LABELING REQUIREMENT.
27-2909. REGISTRATION AND REPORTING.
27-2911. MANUFACTURER RESPONSIBILITY.
27-2913. RETAILER RESPONSIBILITY.
27-2915. DEPARTMENT RESPONSIBILITY.
27-2917. FEES FOR THE COLLECTION OR RECYCLING OF COVERED ELECTRONIC DEVICES.
27-2919. CONTRACTS FOR COLLECTION, TRANSPORTATION AND RECYCLING OF COVERED ELECTRONIC DEVICES.
27-2921. ENVIRONMENTALLY SOUND MANAGEMENT REQUIREMENTS.
27-2923. DISPOSAL BAN.
27-2925. ENFORCEMENT.
27-2927. REGULATORY AUTHORITY.
27-2929. DISPOSITION OF FEES AND PENALTIES.
27-2931. SEVERABILITY.

S 27-2901. DEFINITIONS.

AS USED IN THIS TITLE:

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

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 AN INDIVIDUAL WHO PURCHASES A COVERED ELECTRONIC DEVICE IN A TRANSACTION THAT IS A SALE INCLUDING, BUT NOT LIMITED TO, A BUSINESS, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, GOVERNMENT AGENCY OR NOT-FOR-PROFIT CORPORATION.

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

(B) SHALL NOT INCLUDE:

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

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

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

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

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

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

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

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

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

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

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

(E) MANUFACTURES COVERED ELECTRONIC DEVICES, SUPPLIES THEM TO ANY PERSON OR PERSONS WITHIN A DISTRIBUTION NETWORK THAT INCLUDES WHOLESALERS OR RETAILERS IN THIS STATE, AND BENEFITS FROM THE SALE IN THIS STATE OF THOSE COVERED ELECTRONIC DEVICES THROUGH THAT DISTRIBUTION NETWORK.

7. "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 RESPONSIBILITY, INCLUDING THOSE NAMES, BRAND NAMES, AND BRAND LABELS OF COMPANIES THAT HAVE BEEN ACQUIRED BY THE MANUFACTURER.

8. "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.

9. "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION, NOT-FOR-PROFIT CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY.

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

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

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

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

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

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

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

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

18. "TELEVISION" MEANS A STAND-ALONE DISPLAY SYSTEM CONTAINING A CATHODE RAY TUBE OR ANY OTHER TYPE OF DISPLAY PRIMARILY INTENDED TO RECEIVE VIDEO PROGRAMMING VIA BROADCAST, HAVING A VIEWABLE AREA GREATER THAN FOUR INCHES WHEN MEASURED DIAGONALLY, ABLE TO ADHERE TO STANDARD CONSUMER VIDEO FORMATS SUCH AS PAL, SECAM, NTSC OR HDTV AND HAVING THE CAPABILITY OF SELECTING DIFFERENT BROADCAST CHANNELS AND SUPPORT SOUND CAPABILITY.

S 27-2903. SCOPE OF PRODUCTS.

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

2. THE COMMISSIONER MAY DESIGNATE ADDITIONAL COVERED ELECTRONIC DEVICES WHICH SHALL BE SUBJECT TO THE PROVISIONS OF THIS TITLE, BASED UPON SUFFICIENT EVIDENCE OF THE NEED TO REGULATE THE COLLECTION, TRANSPORTATION AND RECYCLING OF SUCH DEVICES.

S 27-2905. SALES PROHIBITION.

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

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

S 27-2907. LABELING REQUIREMENT.

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

S 27-2909. REGISTRATION AND REPORTING.

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

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

S 27-2911. MANUFACTURER RESPONSIBILITY.

1. MANUFACTURERS OF COVERED ELECTRONIC DEVICES SHALL SUBMIT AN ADDITIONAL FEE BASED ON SALES IN THE STATE TO THE DEPARTMENT. THE FEE SHALL BE THE STATE RECYCLING RATE MULTIPLIED BY THE WEIGHT OF SALES OF THE MANUFACTURER'S COVERED ELECTRONIC DEVICES IN THE STATE DURING THE PREVIOUS CALENDAR YEAR, MULTIPLIED BY NO MORE THAN FIFTY CENTS PER POUND.

2. IN LIEU OF PAYMENT OF THE FEE SET FORTH IN SUBDIVISION ONE OF THIS SECTION, A MANUFACTURER OR A GROUP OF MANUFACTURERS MAY SUBMIT A PLAN TO COLLECT, TRANSPORT AND RECYCLE COVERED ELECTRONIC DEVICES, PROVIDED THAT THE PLAN REPRESENTS AT LEAST FIVE PERCENT OF TOTAL COVERED ELECTRONIC DEVICES EXPECTED TO BE COLLECTED ANNUALLY IN THE STATE.

3. AN INDIVIDUAL MANUFACTURER SUBMITTING A PLAN MUST COLLECT, TRANSPORT AND RECYCLE A QUANTITY OF COVERED ELECTRONIC DEVICES EQUAL TO THE WEIGHT OF SALES OF THE MANUFACTURER'S COVERED ELECTRONIC DEVICES IN THE STATE DURING THE PREVIOUS CALENDAR YEAR MULTIPLIED BY THE STATE RECYCLING RATE.

4. A GROUP OF MANUFACTURERS JOINTLY SUBMITTING A PLAN SHALL COLLECT, TRANSPORT AND RECYCLE THE SUM OF THE OBLIGATIONS OF EACH PARTICIPATING MANUFACTURER.

5. EACH PLAN REQUIRED BY THIS SECTION SHALL BE FILED WITH A MANUFACTURER'S ANNUAL REGISTRATION, AND SHALL INCLUDE AT A MINIMUM:

(A) METHODS THAT WILL BE USED TO COLLECT THE COVERED ELECTRONIC DEVICES INCLUDING THE NAME AND LOCATIONS OF ALL COLLECTION AND CONSOLIDATION POINTS;

(B) AN ESTIMATE OF THE AMOUNT OF COVERED ELECTRONIC DEVICES THAT WILL BE COLLECTED ANNUALLY;

(C) THE PROCESSES AND METHODS THAT WILL BE USED TO RECYCLE RECOVERED COVERED ELECTRONIC DEVICES INCLUDING A DESCRIPTION OF THE DISASSEMBLY, PHYSICAL RECOVERY OPERATION (E.G., CRUSHING, SHREDDING, GRINDING, GLASS TO GLASS RECYCLING) AND/OR OTHER OPERATIONS THAT WILL BE USED, INCLUDING THE NAME AND LOCATION OF ALL FACILITIES TO BE UTILIZED;

(D) DOCUMENTATION OF AUDITS OF EACH PROCESSOR USED IN THE PLAN AND COMPLIANCE WITH PROCESSING RULES ESTABLISHED PURSUANT TO SECTION 27-2927 OF THIS TITLE;

(E) A DESCRIPTION OF THE ACCOUNTING AND REPORTING SYSTEMS THAT WILL BE EMPLOYED TO TRACK PROGRESS TOWARD FULFILLING THE PLAN'S OBLIGATIONS;

(F) MEANS THAT WILL BE UTILIZED TO PUBLICIZE THE COLLECTION OPPORTUNITIES;

(G) THE INTENTION OF THE REGISTRANT TO FULFILL ITS OBLIGATIONS THROUGH OPERATION OF ITS OWN PROGRAM, EITHER INDIVIDUALLY OR IN PARTNERSHIP WITH OTHER MANUFACTURERS; AND

(H) THE AMOUNT OF COVERED ELECTRONIC DEVICES COLLECTED, TRANSPORTED AND RECYCLED THE PREVIOUS CALENDAR YEAR.

6. UPON APPROVAL OF A PLAN BY THE DEPARTMENT, THE MANUFACTURER'S PAYMENT OF ANNUAL FEES BASED UPON SALES SHALL BE WAIVED. THE DEPARTMENT MAY REJECT A PLAN, IN PART OR WHOLE, AND IMPOSE ADDITIONAL REQUIREMENTS AS A CONDITION OF APPROVAL.

7. IF A MANUFACTURER FAILS TO COMPLY WITH ALL THE TERMS AND CONDITIONS OF ITS APPROVED PLAN, IT SHALL BE REQUIRED TO SUBMIT TO THE DEPARTMENT A PAYMENT TO COVER THE COST OF COLLECTING, TRANSPORTING AND RECYCLING THE UNMET PORTION OF ITS OBLIGATION. SUCH PAYMENT SHALL BE EQUAL TO THE QUANTITY OF THE OUTSTANDING PORTION, IN POUNDS, MULTIPLIED BY NOT MORE THAN FIFTY CENTS.

8. MANUFACTURERS THAT COLLECT, TRANSPORT AND RECYCLE IN EXCESS OF THEIR OBLIGATION UNDER THEIR APPROVED PLAN MAY SELL CREDITS TO ANOTHER

REGISTRANT OR APPLY SUCH EXCESS TO THE FOLLOWING CALENDAR YEAR'S RECYCLING OBLIGATION.

S 27-2913. RETAILER RESPONSIBILITY.

A RETAILER SHALL CLEARLY POST AND PROVIDE INFORMATION PROVIDED BY THE DEPARTMENT THAT DESCRIBES WHERE AND HOW TO RECYCLE COVERED ELECTRONIC DEVICES AND OPPORTUNITIES AND LOCATIONS FOR THE COLLECTION OR RETURN OF SUCH DEVICES, THROUGH THE USE OF A TOLL-FREE TELEPHONE NUMBER AND WEB SITE, INFORMATION INCLUDED IN THE PACKAGING OR INFORMATION PROVIDED ACCOMPANYING THE SALE OF THE COVERED ELECTRONIC DEVICES. THIS INFORMATION SHALL BE PROVIDED IN CLEAR WRITTEN FORM IN ENGLISH AND ANY OTHER LANGUAGES DEEMED TO BE PRIMARY LANGUAGES BY THE DEPARTMENT OF EDUCATION.

S 27-2915. DEPARTMENT RESPONSIBILITY.

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

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

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

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

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

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

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

8. THE DEPARTMENT SHALL USE ALL MONEYS APPROPRIATED FROM THE ELECTRONIC EQUIPMENT RECYCLING ACCOUNT FOR THE SOLE PURPOSE OF IMPLEMENTING THE PROVISIONS OF THIS TITLE.

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

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

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

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

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

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

(F) AN EVALUATION OF THE EXISTING COLLECTION AND PROCESSING INFRASTRUCTURE IN EACH COUNTY.

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

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

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

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

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

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

2. THE COLLECTION, TRANSPORTATION AND RECYCLING OF THE COVERED ELECTRONIC DEVICES ARE CONDUCTED IN ACCORDANCE WITH ALL LOCAL, STATE AND FEDERAL LAWS;

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

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

S 27-2921. ENVIRONMENTALLY SOUND MANAGEMENT REQUIREMENTS.

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

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

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

S 27-2923. DISPOSAL BAN.

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

S 27-2925. ENFORCEMENT.

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

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

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

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

(C) USE OF A QUALIFIED COLLECTION PROGRAM TO RECYCLE ANY COVERED ELECTRONIC DEVICE NOT DISCARDED WITHIN THE STATE; AND

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

S 27-2927. REGULATORY AUTHORITY.

THE DEPARTMENT MAY ADOPT SUCH RULES AND REGULATIONS AS SHALL BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

S 27-2929. DISPOSITION OF FEES AND PENALTIES.

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

S 27-2931. SEVERABILITY.

THE PROVISIONS OF THIS TITLE SHALL BE SEVERABLE, AND IF ANY PARAGRAPH, SUBDIVISION, SECTION OR PART 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 4. Subdivision 2 of section 92-s of the state finance law, as added by chapter 610 of the laws of 1993, is amended to read as follows:

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

(i) solid waste account;

(ii) parks, recreation and historic preservation account;

(iii) open space account; [and]

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

(V) ELECTRONIC EQUIPMENT RECYCLING ACCOUNT.

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

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

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

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

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

(F) MONEYS FROM THE ELECTRONIC EQUIPMENT RECYCLING ACCOUNT SHALL BE MADE AVAILABLE, PURSUANT TO APPROPRIATION, TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO BE USED SOLELY FOR THE PURPOSES OF IMPLEMENTING AND ENFORCING THE PROVISIONS OF TITLE TWENTY-NINE OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW.

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

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

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