STATE OF NEW YORK

1095

2021-2022 Regular Sessions

IN SENATE

January 6, 2021

Introduced by Sen. KAMINSKY -- 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 recycling of electronic products

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (d) of subdivision 1 of section 27-2605 of the environmental conservation law, as added by chapter 99 of the laws of 2010, is amended to read as follows:

(d) a general description of the manner in which the manufacturer will comply with section 27-2603 of this title, including specific information on the manufacturer's electronic waste acceptance program in the state, [~~and~~] a current list of locations within the state where consumers may return electronic waste**, and a description of the public education and outreach program required by paragraph (c) of subdivision five of this section**;

§ 2. Paragraphs (a) and (c) of subdivision 5 of section 27-2605 of the environmental conservation law, as added by chapter 99 of the laws of 2010, are amended to read as follows:

(a) collection, handling and recycling or reuse of electronic waste pursuant to section 27-2603 of this title in a manner convenient to consumers. [~~The following acceptance methods shall be considered reasonably convenient: (i) mail or ship back return programs; (ii) collection or acceptance events conducted by the manufacturer or the manufacturer's agent or designee, including events conducted through local governments or private parties; (iii) fixed acceptance locations such as dedicated acceptance sites operated by the manufacturer or its agent or designee; (iv) agreements with local governments, retail stores, sales outlets and not-for-profit organizations which have agreed to provide facilities for the collection of electronic waste; (v) community collection events; and (vi) any combination of these or other acceptance methods which effec-~~

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

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~~tively provide for the acceptance of electronic waste for recycling or reuse through means that are available and reasonably convenient to consumers in the state. At a minimum, the manufacturer shall ensure that all counties of the state, and all municipalities which have a population of ten thousand or greater, have at least one method of acceptance that is available within such county or municipality. The department may establish additional requirements to ensure convenient collection from consumers~~] To meet minimum collection requirements, a manufacturer or the manufacturer's agent or designee shall use geographic modeling to determine the number and distribution of permanent sites to be operated by the manufacturer or its agent or designee for collection of covered electronic equipment based on the following criteria: (i) at least ninety percent of New York residents shall have a collection site within a fifteen mile radius of their principal residence; and (ii) one additional permanent collection site will be established for every fifty thousand residents of an urbanized area (as defined by the United States Census Bureau).

In addition, a manufacturer or its agent or its designee, shall ensure that: (i) in counties with populations between sixty-five thousand and three hundred thousand people, there shall be no less than three permanent collection locations for collection of covered electronic equipment; and (ii) in counties with less than sixty-five thousand people, there shall be, at a minimum, three community collection or acceptance events conducted on an annual basis by the manufacturer or the manufacturer's agent or designee, or on behalf of the manufacturer or its agent or designee by a local government or private party. The schedule for such collection events shall be made available to the public and provided to the department on or before the first day of January of each year.

Permanent collection locations may be operated by the manufacturer or its agent or designee, or by local governments, retail stores, sales outlets, and not-for-profit organizations which have agreed with the manufacturer or its agent or designee to provide facilities for the collection of electronic waste.

Nothing in this section shall prohibit a county or solid waste authority, at its discretion, to establish a permanent collection site for electronic waste to meet the convenience standard, and the manufacturer, or its agent or designee, shall accept all covered electronic equipment so collected at no cost to the municipality, and shall reimburse to the municipality the reasonable costs of preparing the collected equipment for shipment.

A manufacturer may participate with other manufacturers in a collective electronic waste acceptance program to achieve the convenience standard established herein;

(c) a public education and outreach program, developed in collaboration with the manufacturer and the operator of each electronic waste collection site where the manufacturer's covered electronic equipment is collected, to inform consumers about the manufacturer's electronic waste acceptance program, including at a minimum one or more of the following: (i) an internet website and a toll-free telephone number provided by the manufacturer and written information included in the product manual for, or at the time of sale of, covered electronic equipment 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 in the case of manufacturers of computers, hard drives and other covered electronic equipment that have internal memory on which

personal or other confidential data can be stored, such website shall provide instructions for how consumers can destroy such data before surrendering the products for recycling or reuse; (ii) advertisements and press releases [~~if any~~]; and (iii) post-purchase electronic notification from the manufacturer to consumers; and

§ 3. Subdivision 8 of section 27-2605 of the environmental conservation law, as added by chapter 99 of the laws of 2010, is amended to read as follows:

8. A manufacturer shall be responsible for all costs associated with the implementation of the electronic waste acceptance program, including but not limited to all costs of collection, transportation and recycling of covered electronic equipment. A manufacturer shall continue to cover the full costs of collection, transportation and recycling of covered electronic equipment, and its collection responsibilities under subdivision one of this section shall continue, regardless of whether the acceptance standard in subdivision four of section 27-2603 of this article is achieved for the year. The manufacturer or its agent shall not charge consumers, municipalities or electronic waste collection sites for the collection, handling and recycling and reuse of electronic waste, provided that such prohibition shall not apply to a charge on business consumers or to charges for premium services. This prohibition shall not apply to a manufacturer's contract with a consumer for the collection, handling, recycling or reuse of electronic waste that was entered into prior to the effective date of this section. For purposes of this subdivision, "business consumer" means a for-profit entity which has fifty or more full time employees or a not-for-profit corporation with seventy-five or more full time employees, but not a not-for-profit corporation designated under section 501(c)(3) of the internal revenue code. For purposes of this subdivision, "premium services" means equipment and data security services, refurbishment for reuse by the consumer, and other custom services as may be determined by the department.

§ 4. Section 27-2603 of the environmental conservation law is amended by adding a new subdivision 8 to read as follows:

8. A person operating an electronic waste collection site, an electronic waste consolidation facility or an electronic waste recycling facility and having a reasonable ground to believe that a manufacturer has failed or is failing to cover all costs of collection, transportation or recycling of covered electronic equipment, may request the department to investigate such alleged failure and, upon a finding by the department that the manufacturer has failed or is failing to cover such costs, the department shall order the manufacturer to pay such costs.

§ 5. Paragraphs (f) and (h) of subdivision 1 of section 27-2617 of the environmental conservation law, as added by chapter 99 of the laws of 2010, are amended to read as follows:

(f) the names and locations of electronic waste recycling facilities utilized by the manufacturer and entities to which electronic waste is sent for reuse, whether such facilities or entities are located in the state or outside the state, including details on the methods of recycling or reuse of electronic waste, any disassembly or physical recovery operation used, and the environmental management measures implemented by [~~such~~] each recycling facility or entity identified by the manufacturer under this paragraph;

(h) a [~~brief~~] description of [~~its~~] the public education and outreach program required by paragraph (c) of subdivision five of section 27-2605 of this title, including the number of visits to the internet website

and calls to the toll-free telephone number provided by the manufacturer [~~as required by section 27-2605 of this title~~], copies of written notices, and number of post-purchase electronic notifications sent to consumers;

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.