
A BILL FOR AN ACT

RELATING TO ELECTRONIC WASTE RECYCLING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. Chapter 339D, Hawaii Revised Statutes, is
2 amended by adding four new sections to be appropriately
3 designated and to read as follows:
- 4 "§339D-A Annual reporting; determination of market share.
- 5 (a) Each electronic device manufacturer shall report annually
6 to the department its sales, by weight, of the manufacturer's
7 covered electronic devices in the State, categorized by type, to
8 the extent known. If the electronic device manufacturer is
9 unable to provide accurate sales data, it shall explain why the
10 data cannot be provided and estimate its sales data using a
11 method established by the department by rule.
- 12 (b) The department shall determine annually an electronic
13 device manufacturer's market share. An electronic device
14 manufacturer's market share shall be the percentage of the
15 weight of all covered electronic devices sold in the State
16 comprised of covered electronic devices sold by the electronic
17 device manufacturer.



1 (c) The department shall use the best available
2 information to establish the weight of all electronic devices
3 sold in the State, including but not limited to the reports
4 submitted pursuant to subsection (a), state and national sales
5 data, and other reliable commercially available, supplemental
6 sources of information.

7 (d) Beginning March 15, 2012, and each year thereafter,
8 the department shall notify each electronic device manufacturer
9 of its recycling responsibility under section 339D-4, based on
10 the department's determination of its market share.

11 §339D-B Liability for stored information. An electronic
12 device manufacturer shall not be liable for any loss or misuse
13 of electronic data or other information that a consumer may have
14 stored on a covered electronic device that is recovered or
15 recycled by the electronic device manufacturer.

16 §339D-C Environmental management. (a) All covered
17 electronic devices shall be recycled pursuant to this chapter,
18 in a manner that complies with applicable federal, state, and
19 county laws and requirements.

20 (b) The department shall adopt rules, pursuant to chapter
21 91, that include the Institute of Scrap Recycling Industries,



1 Inc.'s Electronics Recycling Operating Practices as requirements
2 for recycling covered electronic devices.

3 §339D-D State procurement. Any state or county agency
4 that purchases or leases any covered electronic device shall
5 require each prospective offeror to certify compliance with this
6 chapter. Failure to provide certification shall disqualify the
7 prospective offeror."

8 SECTION 2. Section 339D-1, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending the definitions of "brand", "covered
11 electronic device", "covered television", "household",
12 "recycling", and "retailer" to read:

13 "Brand" means a symbol, word, or mark that identifies a
14 covered electronic device [~~or a covered television~~], rather than
15 any of its components.

16 "Covered electronic device":

17 (1) Means a computer, computer printer, computer monitor,
18 [~~or~~] portable computer, or television with a screen
19 size greater than four inches measured diagonally; and

20 (2) Shall not include:

21 (A) A covered electronic device that is a part of a
22 motor vehicle or any component part of a motor



1 vehicle assembled by or for a motor vehicle
2 manufacturer or franchised dealer, including
3 replacement parts for use in a motor vehicle;

4 (B) A covered electronic device that is functionally
5 or physically required as a part of a larger
6 piece of equipment designed and intended for use
7 in an industrial, commercial, or medical setting,
8 including diagnostic, monitoring, or control
9 equipment;

10 (C) A covered electronic device that is contained
11 within a clothes washer, clothes dryer,
12 refrigerator, refrigerator and freezer, microwave
13 oven, conventional oven or range, dishwasher,
14 room air conditioner, dehumidifier, or air
15 purifier; or

16 (D) A telephone of any type."

17 [~~"Covered television"~~] "Television":

18 (1) Means any device that is capable of receiving
19 broadcast, cable, or satellite signals and displaying
20 television or video programming, including without
21 limitation any direct view or projection television
22 with a viewable screen of nine inches or larger with



1 display technology based on cathode ray tube, plasma,
2 liquid crystal, digital light processing, liquid
3 crystal on silicon, silicon crystal reflective
4 display, light emitting diode, or similar technology
5 marketed and intended for use by a household;

6 (2) Shall not include:

7 ~~[(A) A computer, computer printer, computer monitor,~~
8 ~~or portable computer;~~

9 ~~-(B)]~~ (A) A television that is a part of a motor
10 vehicle or any component part of a motor vehicle
11 assembled by or for a vehicle manufacturer or
12 franchised dealer, including replacement parts
13 for use in a motor vehicle;

14 ~~-(C)]~~ (B) A television that is functionally or
15 physically required as a part of a larger piece
16 of equipment designed and intended for use in an
17 industrial, commercial, or medical setting,
18 including diagnostic, monitoring, or control
19 equipment;

20 ~~-(D) A telephone of any type, including a mobile~~
21 ~~telephone;]~~ or

22 ~~-(E)]~~ (C) A global positioning system.



1 "Household" means any occupant of a single detached
2 dwelling unit or of a single unit of a multiple dwelling unit
3 who has used a covered electronic device [~~or covered television~~]
4 at a dwelling unit primarily for personal or home business use.

5 "Recycling" means processing (including disassembling,
6 dismantling, or shredding) covered electronic devices [~~or~~
7 ~~covered televisions~~] or their components to recover a useable
8 product; provided that "recycling" does not include any process
9 defined as incineration under applicable laws and rules."

10 "Retailer" means any person who offers covered electronic
11 devices [~~or covered televisions~~] for sale, other than for resale
12 by the purchaser, through any means, including sales outlets,
13 catalogs, or the Internet."

14 2. By deleting the definitions of "market share" and
15 "television manufacturer".

16 [~~"Market share":~~

17 ~~(1) Means the calculation of a television manufacturer's~~
18 ~~prior year's sales of televisions divided by all~~
19 ~~manufacturers' prior year's sales for all televisions,~~
20 ~~as determined by the department,~~

21 ~~(2) May be expressed as a percentage, a fraction, or a~~
22 ~~decimal fraction.~~



1 ~~"Television manufacturer" means a person who:~~

2 ~~(1) Manufactures for sale in the State a covered~~

3 ~~television under a brand that it licenses or owns;~~

4 ~~(2) Manufactures for sale in the State covered televisions~~

5 ~~without affixing a brand;~~

6 ~~(3) Resells into the State a covered television~~

7 ~~manufactured by others under a brand that the seller~~

8 ~~owns or is licensed to use;~~

9 ~~(4) Imports into the United States or exports from the~~

10 ~~United States a covered television for sale in the~~

11 ~~State;~~

12 ~~(5) Sells at retail a covered television acquired from an~~

13 ~~importer described in paragraph (4), and elects to~~

14 ~~register as the manufacturer for those products;~~

15 ~~(6) Manufactures covered televisions and supplies them to~~

16 ~~any person or persons within a distribution network~~

17 ~~that includes wholesalers or retailers in this State;~~

18 ~~or~~

19 ~~(7) Assumes the responsibilities and obligations of a~~

20 ~~television manufacturer under this chapter.~~

21 ~~In the event the television manufacturer is one who~~

22 ~~manufactures, sells, or resells covered televisions under a~~



1 ~~brand for which it has obtained the license, then the licensor~~
2 ~~or brand owner of the brand shall not be included in the~~
3 ~~definition of television manufacturer under paragraph (1) or~~
4 ~~(3)."]~~

5 SECTION 3. Section 339D-4, Hawaii Revised Statutes, is
6 amended by amending subsections (c) and (d) to read as follows:

7 "(c) By June 1, 2009, and annually thereafter, each
8 electronic device manufacturer shall submit a plan to the
9 department to establish, conduct, and manage a program for the
10 collection, transportation, and recycling of its covered
11 electronic devices sold in the State, which shall be subject to
12 the following conditions:

13 (1) The plan shall not permit the charging of a fee at the
14 point of recycling if the covered electronic device is
15 brought by the covered electronic device owner to a
16 central location for recycling; provided that the plan
17 may include a reasonable transportation fee if the
18 electronic device manufacturer or electronic device
19 manufacturer's agent removes the covered electronic
20 device from the owner's premises at the owner's
21 request and if the removal is not in conjunction with



1 delivery of a new electronic device to the owner;

2 [and]

3 (2) Each electronic device manufacturer may develop its
4 own recycling program or may collaborate with other
5 electronic device manufacturers, so long as the
6 program is implemented and fully operational no later
7 than January 1, 2010[-]; and

8 (3) Each electronic device manufacturer's plan shall
9 provide for recycling covered electronic devices of an
10 amount equal in weight to its market share of covered
11 electronic devices sold in the State each year.

12 (d) By March 31, 2011, and annually thereafter, each
13 electronic device manufacturer shall submit a report to the
14 department of the total weight of all covered electronic devices
15 recycled in the previous year, which may include both an
16 electronic device manufacturer's own covered electronic devices
17 and those of other manufacturers."

18 SECTION 4. Section 339D-6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+] §339D-6 [+] Department responsibility. (a) Beginning
21 January 1, 2010, the department shall maintain and update a
22 website and a toll-free number with current information on where

1 covered entities can return covered electronic devices for
2 recycling.

3 (b) The department, in consultation with electronic device
4 manufacturers, shall develop an electronic device recycling
5 education program for consumers."

6 SECTION 5. Section 339D-7.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§339D-7.5[+] Manufacturer and agent responsibilities;
9 regulatory compliance. Each electronic device manufacturer [and
10 ~~television manufacturer~~] shall be responsible for ensuring that
11 the manufacturer and its agents follow all federal, state, and
12 local regulations when collecting, transporting, and recycling
13 covered electronic devices [~~ex-covered televisions~~], and adopt
14 environmentally sound recycling practices for the covered
15 electronic devices or covered televisions."

16 SECTION 6. Section 339D-8, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§339D-8 Enforcement. (a) The department may conduct
19 audits and inspections to determine compliance under this
20 chapter. Except as provided in subsection (c), the department
21 and the attorney general shall be empowered to enforce this
22 chapter and take necessary action against any electronic device



1 ~~[or television manufacturer]~~ or retailer for failure to comply
2 with this chapter or rules adopted thereunder.

3 (b) The attorney general may file suit in the name of the
4 State to enjoin an activity related to the sale of covered
5 electronic devices ~~[or covered televisions]~~ in violation of this
6 chapter.

7 (c) The department shall issue a warning notice to a
8 person for the person's first violation of this chapter. The
9 person shall comply with this chapter within sixty days of the
10 date the warning notice was issued or be subject to the
11 penalties provided by law or rule, including, but not limited
12 to, penalties set forth in subsections (d) through (g). A
13 retailer that receives a warning notice from the department for
14 a violation of section 339D-3(a) ~~[or 339D-24(a)]~~ shall submit
15 proof to the department, within sixty days from the date the
16 warning notice was issued, that its inventory of covered
17 electronic devices ~~[or covered televisions]~~ offered for sale is
18 in compliance with this chapter.

19 (d) Any retailer who sells or offers for sale an unlabeled
20 electronic device ~~[or unlabeled covered television]~~ in violation
21 of section 339D-3 ~~[or 339D-24, respectively,]~~ or any electronic
22 device ~~[or television]~~ manufacturer that fails to comply with



1 any provision of section 339D-4 [~~or 339D-23, respectively,~~] may
2 be assessed a penalty of up to \$10,000 for the first violation
3 and up to \$25,000 for the second and each subsequent violation,
4 in addition to any additional penalties required or imposed
5 pursuant to this chapter.

6 (e) Except as provided in subsection (d), any person who
7 violates any requirement of this chapter may be assessed a
8 penalty of up to \$1,000 for the first violation and up to \$2,000
9 for the second and each subsequent violation, in addition to any
10 additional penalties required or imposed pursuant to this
11 chapter.

12 (f) The department shall determine additional penalties
13 based on adverse impact to the environment, unfair competitive
14 advantage, and other considerations that the department deems
15 appropriate.

16 (g) If [~~a covered television~~] an electronic device
17 manufacturer fails to recycle its market share allocation, the
18 department shall impose a penalty of [~~50 cents~~] \$ _____ per
19 pound for each pound not recycled."

20 SECTION 7. Section 339D-9, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) Notwithstanding subsection (a), the department shall
2 not have the authority to assess any fees, including an advanced
3 recycling fee, registration fee, or other fee, on consumers [~~7~~
4 ~~television manufacturers, or retailers for recovery of covered~~
5 ~~televisions except those noted in sections [339D-4] and 339D-~~
6 ~~22]."~~

7 SECTION 8. Section 339D-11, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) The department shall compile the information
10 submitted by [~~covered television~~] electronic device
11 manufacturers and issue a report to the legislature no later
12 than April 1, 2012, and annually each year thereafter."

13 SECTION 9. Section 339D-12, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§339D-12~~ **Federal preemption.** [~~(a) Part II of this~~] This
16 chapter shall be deemed repealed if a federal law or a
17 combination of federal laws takes effect that establishes a
18 national program for the collection and recycling of covered
19 electronic devices that substantially meets the intent of [~~part~~
20 ~~II of~~] this chapter, including the creation of a financing
21 mechanism for collection, transportation, and recycling of all



1 covered electronic devices from covered entities in the United
2 States.

3 ~~[(b) [Part IV] of this chapter shall be deemed repealed if~~
4 ~~a federal law or a combination of federal laws takes effect that~~
5 ~~establishes a national program for the recycling of covered~~
6 ~~televisions that substantially meets the intent of [part IV] of~~
7 ~~this chapter.] "~~

8 SECTION 10. Chapter 339D, part IV, Hawaii Revised
9 Statutes, is repealed.

10 SECTION 11. No later than December 31, 2011, the
11 department of health shall adopt rules, pursuant to chapter 91,
12 that authorize the recovery and recycling of cathode ray tubes
13 in Hawaii in order to safely further the objectives of chapter
14 339D, Hawaii Revised Statutes.

15 SECTION 12. In codifying the new sections added by section
16 1 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 13. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



H.B. NO. 1521

1 SECTION 14. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Hermana Norta*

JAN 26 2011



Report Title:

Electronic Waste Recycling; Market Share; Covered Televisions

Description:

Combines the electronic waste and television recycling programs. Requires recycling based on market share by weight. Changes the fee per pound for failing to recycle to an unspecified amount. Directs DOH to adopt rules to allow recycling of cathode ray tubes in Hawaii.

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