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# 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 entity", "covered television",  
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]:

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

21 (B) A television with a screen size of nine inches or  
22 larger as measured diagonally;



1           and

2           (2) Shall not include:

3           (A) A covered electronic device that is a part of a  
4           motor vehicle or any component part of a motor  
5           vehicle assembled by or for a motor vehicle  
6           manufacturer or franchised dealer, including  
7           replacement parts for use in a motor vehicle;

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

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

20          (D) A telephone of any type."

21          "Covered entity" means any [~~household,~~] person, government  
22          entity, business, or nonprofit organization exempt from taxation



1 under section 501(c)(3) of the Internal Revenue Code, regardless  
2 of size or place of operation within the State.

3 [~~"Covered television":~~

4 ~~(1)~~ Means] "Television" means any device that is capable  
5 of receiving broadcast, cable, or satellite signals  
6 and displaying television or video programming,  
7 including without limitation any direct view or  
8 projection television [~~with a viewable screen of nine~~  
9 ~~inches or larger~~] with display technology based on  
10 cathode ray tube, plasma, liquid crystal, digital  
11 light processing, liquid crystal on silicon, silicon  
12 crystal reflective display, light emitting diode, or  
13 similar technology marketed and intended for use by a  
14 [~~household,~~] person;

15 [~~(2)~~ Shall not include:

16 ~~(A) A computer, computer printer, computer monitor,~~  
17 ~~or portable computer;~~

18 ~~(B) A television that is a part of a motor vehicle or~~  
19 ~~any component part of a motor vehicle assembled~~  
20 ~~by or for a vehicle manufacturer or franchised~~  
21 ~~dealer, including replacement parts for use in a~~  
22 ~~motor vehicle;~~



- 1           ~~(C) A television that is functionally or physically~~  
2           ~~required as a part of a larger piece of equipment~~  
3           ~~designed and intended for use in an industrial,~~  
4           ~~commercial, or medical setting, including~~  
5           ~~diagnostic, monitoring, or control equipment;~~  
6           ~~(D) A telephone of any type, including a mobile~~  
7           ~~telephone;] or~~  
8           ~~(E) A global positioning system.]~~

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

14          "Retailer" means any person who offers covered electronic  
15          devices [~~or covered televisions]~~ for sale, other than for resale  
16          by the purchaser, through any means, including sales outlets,  
17          catalogs, or the Internet."

18          2. By deleting the definitions of "household", "market  
19          share", and "television manufacturer".

20          ~~["Household" means any occupant of a single detached~~  
21          ~~dwelling unit or of a single unit of a multiple dwelling unit~~



1 ~~who has used a covered electronic device or covered television~~  
2 ~~at a dwelling unit primarily for personal or home business use.~~

3 ~~"Market share":~~

4 ~~(1) Means the calculation of a television manufacturer's~~  
5 ~~prior year's sales of televisions divided by all~~  
6 ~~manufacturers' prior year's sales for all televisions,~~  
7 ~~as determined by the department;~~

8 ~~(2) May be expressed as a percentage, a fraction, or a~~  
9 ~~decimal fraction.~~

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

11 ~~(1) Manufactures for sale in the State a covered~~  
12 ~~television under a brand that it licenses or owns;~~

13 ~~(2) Manufactures for sale in the State covered televisions~~  
14 ~~without affixing a brand;~~

15 ~~(3) Resells into the State a covered television~~  
16 ~~manufactured by others under a brand that the seller~~  
17 ~~owns or is licensed to use;~~

18 ~~(4) Imports into the United States or exports from the~~  
19 ~~United States a covered television for sale in the~~  
20 ~~State;~~



1       ~~(5) Sells at retail a covered television acquired from an~~  
2       ~~importer described in paragraph (4), and elects to~~  
3       ~~register as the manufacturer for those products;~~

4       ~~(6) Manufactures covered televisions and supplies them to~~  
5       ~~any person or persons within a distribution network~~  
6       ~~that includes wholesalers or retailers in this State;~~  
7       ~~or~~

8       ~~(7) Assumes the responsibilities and obligations of a~~  
9       ~~television manufacturer under this chapter.~~

10       ~~In the event the television manufacturer is one who~~  
11       ~~manufactures, sells, or resells covered televisions under a~~  
12       ~~brand for which it has obtained the license, then the licensor~~  
13       ~~or brand owner of the brand shall not be included in the~~  
14       ~~definition of television manufacturer under paragraph (1) or~~  
15       ~~(3)."]~~

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

18       "(c) By June 1, 2009, and annually thereafter, each  
19       electronic device manufacturer shall submit a plan to the  
20       department to establish, conduct, and manage a program for the  
21       collection, transportation, and recycling of its covered





1 electronic devices sold in the State, which shall be subject to  
2 the following conditions:

3 ~~[(1) The plan shall not permit the charging of a fee at the~~  
4 ~~point of recycling if the covered electronic device is~~  
5 ~~brought by the covered electronic device owner to a~~  
6 ~~central location for recycling; provided that the plan~~  
7 ~~may include a reasonable transportation fee if the~~  
8 ~~electronic device manufacturer or electronic device~~  
9 ~~manufacturer's agent removes the covered electronic~~  
10 ~~device from the owner's premises at the owner's~~  
11 ~~request and if the removal is not in conjunction with~~  
12 ~~delivery of a new electronic device to the owner; and]~~

13 (1) The plan shall include a description of the methods  
14 for the convenient collection of covered electronic  
15 devices at no cost to the covered entities. The  
16 recycling plan shall provide collection services of  
17 covered electronic devices in each county of the  
18 state. In addition, for United States Postal Zip Code  
19 areas with a population greater than twenty-five  
20 thousand, the plan shall provide at least one of the  
21 following services:

22 (A) A staffed drop-off site;



1            (B) Alternative collection service such as on-site  
2            pick-up service; or

3            (C) Collection events which are periodically held at  
4            an easily accessible, central location;

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

10          (3) Each electronic device manufacturer's plan shall  
11          provide for recycling covered electronic devices of an  
12          amount equal in weight to its market share of covered  
13          electronic devices sold in the State each year as  
14          determined pursuant to section 339D-A; and

15          (4) Plans that contain only a mail-back option shall not  
16          be allowed.

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



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

3 "[~~§~~339D-6~~§~~] **Department responsibility.** (a) Beginning  
4 January 1, 2010, the department shall maintain and update a  
5 website and a toll-free number with current information on where  
6 covered entities can return covered electronic devices for  
7 recycling.

8 (b) The department, in consultation with electronic device  
9 manufacturers, shall develop an electronic device recycling  
10 education program for consumers."

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

13 "[~~§~~339D-7.5~~§~~] **Manufacturer and agent responsibilities;**  
14 **regulatory compliance.** Each electronic device manufacturer [~~and~~  
15 ~~television manufacturer~~] shall be responsible for ensuring that  
16 the electronic device manufacturer and its agents follow all  
17 federal, state, and local regulations when collecting,  
18 transporting, and recycling covered electronic devices [~~or~~  
19 ~~covered televisions~~], and adopt environmentally sound recycling  
20 practices for the covered electronic devices [~~or covered~~  
21 ~~televisions~~]."



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

3 "**§339D-8 Enforcement.** (a) The department may conduct  
4 audits and inspections to determine compliance under this  
5 chapter. Except as provided in subsection (c), the department  
6 and the attorney general shall be empowered to enforce this  
7 chapter and take necessary action against any electronic device  
8 [~~er television manufacturer~~] or retailer for failure to comply  
9 with this chapter or rules adopted thereunder.

10 (b) The attorney general may file suit in the name of the  
11 State to enjoin an activity related to the sale of covered  
12 electronic devices [~~er covered televisions~~] in violation of this  
13 chapter.

14 (c) The department shall issue a warning notice to a  
15 person for the person's first violation of this chapter. The  
16 person shall comply with this chapter within sixty days of the  
17 date the warning notice was issued or be subject to the  
18 penalties provided by law or rule, including[~~7~~] but not limited  
19 to[~~7~~] penalties set forth in subsections (d) through (g). A  
20 retailer that receives a warning notice from the department for  
21 a violation of section 339D-3(a) [~~er 339D-24(a)~~] shall submit  
22 proof to the department, within sixty days from the date the



1 warning notice was issued, that its inventory of covered  
2 electronic devices [~~or covered televisions~~] offered for sale is  
3 in compliance with this chapter.

4 (d) Any retailer who sells or offers for sale an unlabeled  
5 covered electronic device [~~or unlabeled covered television~~] in  
6 violation of section 339D-3 [~~or 339D-24, respectively,~~] or any  
7 electronic device [~~or television~~] manufacturer that fails to  
8 comply with any provision of section 339D-4 [~~or 339D-23,~~  
9 ~~respectively,~~] may be assessed a penalty of up to \$10,000 for  
10 the first violation and up to \$25,000 for the second and each  
11 subsequent violation, in addition to any additional penalties  
12 required or imposed pursuant to this chapter.

13 (e) Except as provided in subsection (d), any person who  
14 violates any requirement of this chapter may be assessed a  
15 penalty of up to \$1,000 for the first violation and up to \$2,000  
16 for the second and each subsequent violation, in addition to any  
17 additional penalties required or imposed pursuant to this  
18 chapter.

19 (f) The department shall determine additional penalties  
20 based on adverse impact to the environment, unfair competitive  
21 advantage, and other considerations that the department deems  
22 appropriate.



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

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

7 "(b) Notwithstanding subsection (a), the department shall  
8 not have the authority to assess any fees, including an advanced  
9 recycling fee, registration fee, or other fee, on consumers [~~7~~  
10 ~~television manufacturers, or retailers for recovery of covered~~  
11 ~~televisions except those noted in sections [339D 4] and 339D-~~  
12 ~~22]."~~

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

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

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

21 "**§339D-12 Federal preemption.** [~~(a) Part II of this~~] This  
22 chapter shall be deemed repealed if a federal law or a



1 combination of federal laws takes effect that establishes a  
2 national program for the collection and recycling of covered  
3 electronic devices that substantially meets the intent of [part  
4 ~~II of~~] this chapter, including the creation of a financing  
5 mechanism for collection, transportation, and recycling of all  
6 covered electronic devices from covered entities in the United  
7 States.

8 ~~[(b) [Part IV] of this chapter shall be deemed repealed if~~  
9 ~~a federal law or a combination of federal laws takes effect that~~  
10 ~~establishes a national program for the recycling of covered~~  
11 ~~televisions that substantially meets the intent of [part IV] of~~  
12 ~~this chapter.]"~~

13 SECTION 10. Chapter 339D, part IV, Hawaii Revised  
14 Statutes, is repealed.

15 SECTION 11. No later than December 31, 2011, the  
16 department of health shall adopt rules, pursuant to chapter 91,  
17 that authorize the recovery and recycling of cathode ray tubes  
18 in Hawaii to safely further the objectives of chapter 339D,  
19 Hawaii Revised Statutes.

20 SECTION 12. In codifying the new sections added by section  
21 1 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 13. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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





**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 the Department of Health to adopt rules to allow recycling of cathode ray tubes in Hawaii. Amends conditions placed on electronic device and television manufacturer's recycling plans. (HB1521 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

