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# A BILL FOR AN ACT

RELATING TO RECYCLING.

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

1           SECTION 1. Hawaii's existing electronic device and  
2 television recycling program was an initial step towards  
3 efficient recycling of consumer electronic goods. The program,  
4 however, has not been effective in maximizing the amounts of  
5 electronics being recycled.

6           In the 2012 legislative session the department of health  
7 proposed to expand the program to include all electrically  
8 powered devices. As a result the legislature requested the  
9 department to organize a task force to examine the issue.

10           The task force represented multiple stakeholders including  
11 manufacturers, retailers, recyclers, trade groups, and  
12 government agencies. This Act attempts to take into account the  
13 range of viewpoints expressed by the group and seeks to create a  
14 system that best serves Hawaii's consumers and its environment.

15           The purpose of this Act is to implement an electric device  
16 recycling and recovery program that goes far beyond existing  
17 state programs in terms of product scope, consumer convenience,



1 and environmental protection and would place Hawaii in the  
2 forefront of recycling efforts nationwide.

3 SECTION 2. Chapter 339D, Hawaii Revised Statutes, is  
4 amended by amending its title to read as follows:

5 " [~~ELECTRONIC WASTE AND TELEVISION~~] ELECTRIC DEVICE  
6 RECYCLING AND RECOVERY ACT"

7 SECTION 3. Section 339D-1, Hawaii Revised Statutes, is  
8 amended as follows:

9 1. By adding five new definitions to be appropriately  
10 inserted and to read as follows:

11 "Collector" means a person that accepts electric devices  
12 for reuse, or delivers the devices to a recycler for the  
13 purposes of this chapter.

14 "Peripheral" means any electrically powered device intended  
15 for use with a computer or television.

16 "Recycler" means any person who engages in the recycling of  
17 electric devices for the purposes of this chapter.

18 "Reuse" means any operation by which an electric device  
19 changes ownership and is used for the same purpose for which it  
20 was originally purchased.

21 "White good" means a discarded major electrical and  
22 mechanical appliance made primarily of metal parts, including



1 refrigerators, stoves, washing machines, clothes dryers, hot  
2 water heaters, central air conditioners, and boilers.  
3 Appliances of less than three cubic feet before crushing shall  
4 not be included in this definition."

5 2. By amending the definitions of "brand", "covered  
6 electronic device", "electronic device manufacturer",  
7 "recycling", and "retailer" to read:

8 "Brand" means a symbol, word, or mark that identifies [a  
9 ~~covered electronic~~] an electric device [or a covered  
10 television], rather than any of its components.

11 "[~~Covered electronic~~] Electric device":

12 (1) Means [a]:

13 (A) A computer, [computer printer, computer monitor,  
14 or portable computer with a screen size greater  
15 than four inches measured diagonally,]  
16 television, or peripheral; and

17 (B) Effective January 1, 2015, in addition to the  
18 devices listed in subparagraph (A), any device  
19 containing an electric motor, heating element, or  
20 speaker, but excluding toys and tools; and

21 (2) Shall not include:



- 1 (A) [~~A covered electronic~~] An electric device that is  
2 a part of a motor vehicle or any component part  
3 of a motor vehicle assembled by or for a motor  
4 vehicle manufacturer or franchised dealer,  
5 including replacement parts for use in a motor  
6 vehicle;
- 7 (B) [~~A covered electronic~~] An electric device that is  
8 functionally or physically required as a part of  
9 a larger piece of equipment designed and intended  
10 for use in an industrial, commercial, or medical  
11 setting, including diagnostic, monitoring, or  
12 control equipment;
- 13 (C) [~~A covered electronic device that is contained~~  
14 ~~within a clothes washer, clothes dryer,~~  
15 ~~refrigerator, refrigerator and freezer, microwave~~  
16 ~~oven, conventional oven or range, dishwasher,~~  
17 ~~room air conditioner, dehumidifier, or air~~  
18 ~~purifier;~~] A white good; or
- 19 (D) [~~A telephone of any type.~~] A device weighing less  
20 than twelve ounces excluding its packaging.

21 "~~[Electronic device manufacturer:]~~ Manufacturer":

22 (1) Means any existing person:



- 1 (A) Who manufactures or manufactured [~~ecovered~~  
2 ~~electronie~~] electric devices under a brand that  
3 it owns or owned or is or was licensed to use,  
4 other than a license to manufacture [~~ecovered~~  
5 ~~electronie~~] electric devices for delivery  
6 exclusively to or at the order of the licensor;
- 7 (B) Who sells or sold [~~ecovered-electronie~~] electric  
8 devices manufactured by others under a brand that  
9 the seller owns or owned or is or was licensed to  
10 use, other than a license to manufacture [~~ecovered~~  
11 ~~electronie~~] electric devices for delivery  
12 exclusively to or at the order of the licensor;
- 13 (C) Who manufactures or manufactured [~~ecovered~~  
14 ~~electronie~~] electric devices without affixing a  
15 brand;
- 16 (D) Who manufactures or manufactured [~~ecovered~~  
17 ~~electronie~~] electric devices to which it affixes  
18 or affixed a brand that it neither owns or owned  
19 nor is or was licensed to use; or
- 20 (E) For whose account [~~ecovered-electronie~~] electric  
21 devices manufactured outside the United States  
22 are or were imported into the United States;



1 provided that if at the time those [~~covered~~  
2 ~~electronic~~] electric devices are or were imported  
3 into the United States and another person has  
4 registered as the manufacturer of the brand of  
5 the [~~covered electronic~~] electric devices, this  
6 paragraph shall not apply; and

7 (2) Shall not include persons who manufacture [~~no more~~]  
8 fewer than one hundred [~~computers~~] electric devices  
9 per year.

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

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

20 3. By repealing the definitions of "covered entity",  
21 "covered television", "household", "market share", "new covered



1 electronic device", "program year", "recover", and "television  
2 manufacturer".

3 ~~["Covered entity" means any household, government entity,  
4 business, or nonprofit organization exempt from taxation under  
5 section 501(c)(3) of the United States Internal Revenue Code,  
6 regardless of size or place of operation within the State.~~

7 ~~"Covered television":~~

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

18 ~~(2) Shall not include:~~

19 ~~(A) A computer, computer printer, computer monitor,  
20 or portable computer;~~

21 ~~(B) A television that is a part of a motor vehicle or  
22 any component part of a motor vehicle assembled~~



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

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

9 ~~(D) A telephone of any type, including a mobile~~  
10 ~~telephone; or~~

11 ~~(E) A global positioning system.~~

12 ~~"Household" means any occupant of a single detached~~  
13 ~~dwelling unit or of a single unit of a multiple dwelling unit~~  
14 ~~who has used a covered electronic device or covered television~~  
15 ~~at a dwelling unit primarily for personal or home business use.~~

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       ~~"New covered electronic device" means a covered electronic~~  
2 ~~device that is manufactured after the effective date of this~~  
3 ~~chapter.~~

4       ~~"Program year" means a full calendar year beginning on or~~  
5 ~~after January 1, 2010, and each calendar year thereafter~~  
6 ~~beginning on January 1.~~

7       ~~"Recover" means to reuse or recycle.~~

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

- 9       ~~(1) Manufactures for sale in the State a covered~~  
10       ~~television under a brand that it licenses or owns;~~  
11       ~~(2) Manufactures for sale in the State covered televisions~~  
12       ~~without affixing a brand;~~  
13       ~~(3) Resells into the State a covered television~~  
14       ~~manufactured by others under a brand that the seller~~  
15       ~~owns or is licensed to use;~~  
16       ~~(4) Imports into the United States or exports from the~~  
17       ~~United States a covered television for sale in the~~  
18       ~~State;~~  
19       ~~(5) Sells at retail a covered television acquired from an~~  
20       ~~importer described in paragraph (4), and elects to~~  
21       ~~register as the manufacturer for those products;~~



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

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

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

13       SECTION 4. Chapter 339D, Part II, Hawaii Revised Statutes,  
14       is amended as follows:

15       1. By adding eight new sections to be appropriately  
16       designated and to read:

17       "§339D-A Manufacturer recycling goals. (a) The  
18       department shall use the best available information to establish  
19       the weight of all electric devices sold in the State, including  
20       the reports submitted pursuant to section 339D-B, state and  
21       national sales data, and other reliable commercially available,  
22       supplemental sources of information.



1       (b) Not later than September 1, 2013, and annually  
2 thereafter, the department shall notify each manufacturer of its  
3 recycling obligation.

4       (c) For 2014, each manufacturer as defined in section  
5 339D-1 shall collect and recycle the equivalent of sixty per  
6 cent, by weight, of the electric devices that it sold in the  
7 State two years prior.

8       (1) For 2015, the goal shall be seventy per cent, by  
9 weight, of the manufacturer's electric devices, as  
10 defined in paragraph (1)(A) of the definition of  
11 "electric device" in section 339D-1, sold in the State  
12 two years prior, unless amended by rule pursuant to  
13 chapter 91.

14       (2) For 2016 and thereafter the goal shall be eighty per  
15 cent, by weight, of the manufacturer's electric  
16 devices, as defined in paragraph (1)(A) of the  
17 definition of "electric device" in section 339D-1,  
18 sold in the State two years prior, unless amended by  
19 rule pursuant to chapter 91.

20       (d) For 2015, in addition to the electric devices  
21 collected and recycled pursuant to subsection (c), each  
22 manufacturer, as defined in section 339D-1, shall collect and



1 recycle the equivalent of thirty per cent, by weight, of the  
2 electric devices added to the definition of "electric device" in  
3 section 339D-1 as of July 1, 2015, by paragraph (1)(B), that it  
4 sold in the State two years prior.

5 (1) For 2016, the goal shall be forty per cent, by weight,  
6 of the manufacturer's electric devices added to the  
7 definition of "electric device" in section 339D-1 by  
8 paragraph (1)(B) that were sold in the State two years  
9 prior, unless amended by rule pursuant to chapter 91.

10 (2) For 2017 and thereafter the goal shall be fifty per  
11 cent, by weight, of the manufacturer's electric  
12 devices added to the definition of "electric device"  
13 in section 339D-1 by paragraph (1)(B) sold in the  
14 State two years prior, unless amended by rule pursuant  
15 to chapter 91.

16 (e) Manufacturers may collect any electric device to meet  
17 their recycling goal.

18 (f) Manufacturers may consider reused electric devices  
19 towards achieving their recycling goals.

20 **§339D-B Record keeping requirements.** (a) Each  
21 manufacturer shall maintain records of the following: for a  
22 minimum five years:



1       (1) The amount, in weight, of its annual sales of electric  
2       devices sold in the State;

3       (2) The amount of electric devices it has collected for  
4       recycling or reuse by county; and

5       (3) The amount of electric devices recycled or reused by  
6       each recycler on behalf of the manufacturer.

7       (b) Nothing in this section is intended to exempt any  
8       person from liability that the person would otherwise have under  
9       applicable law.

10       §339D-C Manufacturer reporting requirements. (a) By  
11       August 1, 2013, and annually thereafter, each manufacturer shall  
12       report to the department its sales, by weight, of the  
13       manufacturer's electric devices sold in the State in the  
14       previous calendar year, categorized by electric device type.

15       (b) If the manufacturer is unable to provide accurate  
16       sales data, it shall explain why the data cannot be provided.  
17       The manufacturer shall instead report an estimate of its sales  
18       data and provide an explanation of the methods used to derive  
19       the estimate.

20       (c) By March 31, 2014, and annually thereafter, each  
21       manufacturer shall report to the department the total weight of  
22       all electric devices recycled or reused, by county, in the



1 previous calendar year. Reports shall be submitted on forms  
2 prescribed by the department.

3 **§339D-D Collector registration.** (a) By January 1, 2014,  
4 each collector shall register with the department, using forms  
5 prescribed by the department, and pay to the department a  
6 registration fee of \$250. Thereafter, if a collector has not  
7 previously registered with the department, the collector shall  
8 register with the department prior to accepting electric  
9 devices. A registration shall be valid until December 31 of  
10 each year.

11 (b) Each collector shall submit an annual renewal of its  
12 registration with the payment of a registration fee of \$250, by  
13 January 1 of each year.

14 **§339D-E Collector record keeping requirements.** Each  
15 collector shall maintain records for a minimum of five years for  
16 the following:

- 17 (1) The amount, in weight, of electric devices it has  
18 collected for recycling and reuse and the amounts sent  
19 for recycling and reuse; and  
20 (2) Bills of lading or weight tickets for all electric  
21 devices sent for recycling or reuse.



1        **§339F Collector reporting requirements.** By March 31,  
2 2015, and annually thereafter, each collector shall report to  
3 the department the weight of all electric devices collected for  
4 recycling or reuse in the previous year for the purposes of this  
5 section. Reports shall be submitted on forms prescribed by the  
6 department and shall indicate the weight of electric devices  
7 sent to each recycler. Each collector shall also report the  
8 amount of electric devices that were reused.

9        **§339D-G Collector responsibility.** (a) Each collector  
10 shall possess and maintain all necessary business and  
11 environmental permits.

12        **§339D-H Department review of manufacturer recycling plans.**  
13 (a) The department shall review each manufacturer's plan within  
14 fourteen days of receipt of the plan to determine whether the  
15 plan complies with this part.

16        (b) If the manufacturer's plan is approved, the department  
17 shall notify the manufacturer.

18        (c) If the manufacturer's plan is rejected, the department  
19 shall notify the manufacturer and provide the reasons for the  
20 rejection.

21        (d) Within thirty days after receipt of the department's  
22 rejection notification, the manufacturer shall revise and



1 resubmit the plan to the department for review. The department  
2 shall review the resubmitted plan according to the process  
3 defined in subsections (a), (b), and (c)."

4 2. By amending its title to read:

5 "~~[ELECTRONIC]~~ ELECTRIC DEVICE WASTE RECYCLING"

6 SECTION 5. Chapter 339D, Part III, Hawaii Revised  
7 Statutes, is amended as follows:

8 1. By amending its title to read:

9 "~~[+] PART III.[+]~~ GENERAL PROVISIONS"

10 2. By adding a new section to be appropriately designated  
11 and to read:

12 "~~§339D-~~ **Audit authority.** The records of manufacturers,  
13 collectors, and recyclers shall be made available, upon request,  
14 for inspection by the department, a duly authorized agent of the  
15 department, or the office of the auditor."

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

18 "~~§339D-2~~ **Scope of products.** The collection,  
19 transportation, and recycling provisions of this part shall  
20 apply only to [~~covered electronic~~] electric devices used and  
21 discarded in this State [~~by a covered entity~~]."





1 SECTION 7. Section 339D-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§339D-3 Sales prohibition.** (a) Beginning January 1,  
4 [2010,] 2014, no [~~electronic device~~] "manufacturer" or retailer  
5 shall sell or offer for sale any new [~~covered electronic~~]  
6 electric device for delivery in this State unless:

7 (1) The [~~covered electronic~~] electric device is labeled  
8 with a brand, and the label is permanently affixed and  
9 readily visible; and

10 (2) The brand is included in a registration that is filed  
11 with the department and that is effective pursuant to  
12 section 339D-4(b)(3).

13 (b) Beginning April 1, [2009,] 2014, the department shall  
14 maintain a list of each registered [~~electronic device~~]  
15 manufacturer and the brands reported in each [~~electronic device~~]  
16 manufacturer's registration and a list of brands for which no  
17 [~~electronic device~~] manufacturer has registered. The lists  
18 shall be posted on the department website and shall be updated  
19 by the first day of each month. Each retailer who sells or  
20 offers for sale any new [~~covered electronic~~] electric device for  
21 delivery in this State shall review these lists prior to selling  
22 the [~~covered electronic~~] electric device. A retailer is



1 considered to have complied with subsection (a) if, on the date  
2 a new [~~covered electronic~~] electric device was ordered by the  
3 retailer, the brand was included on the department's list of  
4 brands reported in an [~~electronic device~~] manufacturer's  
5 registration."

6 SECTION 8. Section 339D-4, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§339D-4 [~~Electronic device manufacturer~~] Manufacturer**  
9 **responsibility.** (a) Beginning [~~October 1, 2009,~~] January 1,  
10 2014, each [~~electronic device~~] manufacturer shall label all new  
11 [~~covered electronic~~] electric devices to be offered for sale for  
12 delivery in this State with a brand, which label shall be  
13 permanently affixed and readily visible.

14 (b) (1) By January 1, [~~2009,~~] 2014, each [~~electronic~~  
15 ~~device~~] manufacturer of new [~~covered electronic~~]  
16 electric devices offered for sale for delivery in this  
17 State shall register with the department and pay to  
18 the department a registration fee of \$5,000.

19 Thereafter, if [~~an electronic device~~] a manufacturer  
20 has not previously registered, the [~~electronic device~~]  
21 manufacturer shall register with the department prior  
22 to any offer for sale for delivery in this State of



1 the [~~electronic device~~] manufacturer's new [~~covered~~  
2 ~~electronic~~] electric devices.

3 (2) Each [~~electronic device~~] manufacturer who is  
4 registered shall submit an annual renewal of its  
5 registration with the payment of a registration fee of  
6 \$5,000, by January 1 of each program year.

7 (3) The registration and each renewal shall include a list  
8 of all of the [~~electronic device~~] manufacturer's  
9 brands of [~~covered electronic~~] electric devices and  
10 shall be effective on the second day of the succeeding  
11 month after receipt by the department of the  
12 registration or renewal.

13 (c) By [~~June 1, 2009,~~] October 1, 2013, and annually  
14 thereafter, each [~~electronic device~~] manufacturer shall submit a  
15 plan to the department to establish, conduct, and manage a  
16 program for the collection, transportation, and recycling of its  
17 [~~covered electronic~~] electric devices sold in the State, which  
18 shall be subject to the following conditions:

19 (1) The plan shall not permit the charging of a fee at the  
20 point of recycling if the [~~covered electronic~~]  
21 electric device is brought by the [~~covered electronic~~]  
22 electric device owner to a central location for



1 recycling; provided that the plan may include a  
2 reasonable transportation fee if the [~~electronic~~  
3 ~~device~~] manufacturer or [~~electronic device~~]  
4 manufacturer's agent removes the [~~covered electronic~~  
5 electric device from the owner's premises at the  
6 owner's request and if the removal is not in  
7 conjunction with delivery of a new [~~electronic~~]  
8 electric device to the owner; [~~and~~]

- 9 (2) [~~Each electronic device manufacturer may develop its~~  
10 ~~own recycling program or may collaborate with other~~  
11 ~~electronic device manufacturers, so long as the~~  
12 ~~program is implemented and fully operational no later~~  
13 ~~than January 1, 2010.] The plan shall include a  
14 description of the methods for the convenient  
15 collection of electric devices at no cost to the owner  
16 except as provided in paragraph (1). The recycling  
17 plan shall provide for collection services of electric  
18 devices in each county of the State and zip code  
19 tabulation areas, as defined by the United States  
20 Census Bureau, with a population greater than twenty-  
21 five thousand. The recycling plan shall include at  
22 least one of the following:~~



- 1           (A) Staffed drop-off sites;
- 2           (B) Alternative collection services such as on-site  
3           pick-up services; or
- 4           (C) Collection events held at an easily accessible,  
5           central location;
- 6           (3) The plan shall provide collection services at a  
7           minimum of once in each quarter of the year;
- 8           (4) A plan that contains only a mail-back option shall not  
9           be allowed;
- 10          (5) A plan shall specify the use of only registered  
11          collectors, for the purposes of this chapter, with the  
12          State; and
- 13          (6) A plan shall specify the use of recyclers that have  
14          achieved an maintained third-party accredited  
15          certification from the Responsible Recycling (R2)  
16          Practices Standard, the e-Stewards Standard; or an  
17          internationally accredited third-party environmental  
18          management standard for the safe and responsible  
19          handling of electric devices.
- 20          ~~(d) [By March 31, 2011, and annually thereafter, each~~  
21          ~~electronic device manufacturer shall submit to the department~~  
22          ~~the total weight of all covered electronic devices recycled in~~



1 ~~the previous year, which may include both an electronic device~~  
2 ~~manufacturer's own covered electronic devices and those of other~~  
3 ~~manufacturers.]~~ Each manufacturer may develop its own recycling  
4 program or may collaborate with other manufacturers, so long as  
5 the program is implemented and fully operational by January 1,  
6 2014.

7 (e) ~~[By July 1, 2011, and annually thereafter, the~~  
8 ~~department shall publish a ranking of all electronic device~~  
9 ~~manufacturers selling covered electronic devices in the State,~~  
10 ~~based upon the annual total weight of covered electronic devices~~  
11 ~~recycled by each electronic device manufacturer in the previous~~  
12 ~~year.]~~ By March 31, 2014, and annually thereafter, each  
13 manufacturer shall submit to the department the total weight of  
14 all electric devices recycled in the previous year, which may  
15 include both a manufacturer's own electric devices and those of  
16 other manufacturers.

17 (f) The State may adopt regulations allowing a procurement  
18 preference based upon ~~[an electronic device]~~ a manufacturer's  
19 ranking.

20 (g) The department shall review each ~~[electronic device]~~  
21 manufacturer's plan and, within sixty days of receipt of the  
22 plan, shall determine whether the plan complies with this part.



1 If the plan is approved, the department shall notify the  
2 [~~electronic device~~] manufacturer or group of [~~electronic device~~]  
3 manufacturers. If the plan is rejected, the department shall  
4 notify the electronic device manufacturer or group of  
5 [~~electronic device~~] manufacturers and provide the reasons for  
6 the plan's rejection. Within thirty days after receipt of the  
7 department's rejection, the [~~electronic device~~] manufacturer or  
8 group of [~~electronic device~~] manufacturers may revise and  
9 resubmit the plan to the department for approval.

10 (h) The obligations under this part for [~~an electronic~~  
11 ~~device~~] a manufacturer who manufactures or manufactured [~~covered~~  
12 ~~electronic~~] electric devices, or who sells or sold [~~covered~~  
13 ~~electronic~~] electric devices manufactured by others, under a  
14 brand that was previously used by a different person in the  
15 manufacture of [~~covered electronic~~] electric devices, shall  
16 extend to all [~~covered electronic~~] electric devices bearing that  
17 brand.

18 (i) Nothing in this part is intended to exempt any person  
19 from liability that the person would otherwise have under  
20 applicable law.

21 (j) The obligations under this chapter for a manufacturer  
22 that manufactures or manufactured electric devices, or who sells



1 or sold electric devices manufactured by others, under a brand  
2 that was previously used by a different person in the  
3 manufacture of electric devices, shall extend to all electric  
4 devices bearing that brand."

5 SECTION 9. Section 339D-5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "~~+~~§339D-5~~+~~ **Retailer responsibility.** Beginning January  
8 1, 2010, retailers shall make available to their customers  
9 information on collection services in the State~~[, including the~~  
10 ~~department's website and toll-free telephone number]~~. Remote  
11 retailers may include this information in a visible location on  
12 their website to fulfill this requirement."

13 SECTION 10. Section 339D-6, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "~~+~~§339D-6~~+~~ **Department responsibility.** ~~[Beginning]~~ By  
16 January 1, ~~[2010,]~~ 2014, the department shall post and maintain  
17 ~~[and update a website and a toll-free number with current]~~  
18 electric device recycling information on ~~[where covered entities~~  
19 ~~can return covered electronic devices for recycling.]~~ its  
20 website."

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





1           " ~~[+]§339D-7.5[+]~~ **Manufacturer and agent responsibilities;**  
2 **regulatory compliance.** Each ~~[electronic device]~~ manufacturer  
3 ~~[and television manufacturer]~~ shall be responsible for ensuring  
4 that the manufacturer and its agents follow all federal, state,  
5 and local regulations when collecting, transporting, and  
6 recycling ~~[covered electronic]~~ electric devices ~~[or covered~~  
7 ~~televisions, and adopt environmentally sound recycling practices~~  
8 ~~for the covered electronic devices or covered televisions]."~~

9           SECTION 12. Section 339D-8, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§339D-8 Enforcement.** ~~[(a) The department may conduct~~  
12 ~~audits and inspections to determine compliance under this~~  
13 ~~chapter. Except as provided in subsection (c), the department~~  
14 ~~and the attorney general shall be empowered to enforce this~~  
15 ~~chapter and take necessary action against any [electronic device~~  
16 ~~or television manufacturer or retailer for failure to comply~~  
17 ~~with this chapter or rules adopted thereunder.~~

18           ~~(b) The attorney general may file suit in the name of the~~  
19 ~~State to enjoin an activity related to the sale of covered~~  
20 ~~electronic devices or covered televisions in violation of this~~  
21 ~~chapter.~~



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

13       ~~(d) Any retailer who sells or offers for sale an unlabeled~~  
14 ~~electronic device or unlabeled covered television in violation~~  
15 ~~of section 339D-3 or 339D-24, respectively, or any electronic~~  
16 ~~device or television manufacturer that fails to comply with any~~  
17 ~~provision of section 339D-4 or 339D-23, respectively, may be~~  
18 ~~assessed a penalty of up to \$10,000 for the first violation and~~  
19 ~~up to \$25,000 for the second and each subsequent violation, in~~  
20 ~~addition to any additional penalties required or imposed~~  
21 ~~pursuant to this chapter.~~



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

7       ~~(f) The department shall determine additional penalties~~  
8 ~~based on adverse impact to the environment, unfair competitive~~  
9 ~~advantage, and other considerations that the department deems~~  
10 ~~appropriate.~~

11       ~~(g) If a covered television manufacturer fails to recycle~~  
12 ~~its market share allocation, the department shall impose a~~  
13 ~~penalty of 50 cents per pound for each pound not recycled.]~~ (a)  
14 If the director determines that any person has violated or is  
15 violating any provision of this chapter, any rule adopted  
16 pursuant chapter 91, or any term or condition of a certification  
17 or permit issued pursuant to this chapter, the director may do  
18 any one or more of the following:

19       (1) Issue a field citation assessing an administrative  
20 penalty and ordering corrective action immediately or  
21 within a specified time;



1       (2) Issue an order assessing an administrative penalty for  
2       any past or current violation;  
3       (3) Require compliance immediately or within a specified  
4       time; or  
5       (4) Commence a civil action in circuit court of the  
6       circuit in which the violation occurred or where the  
7       person resides or maintains the person's principal  
8       place of business for appropriate relief, including a  
9       temporary, preliminary, or permanent injunction, the  
10       imposition and collection of civil penalties, or other  
11       relief.

12       (b) Any order issued pursuant to this section may include  
13       a suspension, modification, or revocation of a certification or  
14       permit issued under this chapter, and shall state with  
15       reasonable specificity the nature of the violation.

16       (c) Any order issued under this chapter shall become  
17       final, unless not later than twenty days after the notice of  
18       order is served, the person or persons named therein request in  
19       writing a hearing before the director. Any penalty imposed  
20       under this chapter shall become due and payable twenty days  
21       after the notice of penalty is served unless the person or  
22       persons named therein request in writing a hearing before the



1 director. Whenever a hearing is requested on any penalty  
2 imposed under this chapter, the penalty shall become due and  
3 payable only upon completion of all review proceedings and the  
4 issuance of a final order confirming the penalty in whole or in  
5 part. Upon request for a hearing, the director shall require  
6 that the alleged violator or violators appear before the  
7 director for a hearing at a time and place specified in the  
8 notice and answer the charges complained of.

9 (d) Any hearing conducted under this section shall be  
10 conducted as a contested case under chapter 91. If after a  
11 hearing held pursuant to this section, the director finds that a  
12 violation or violations have occurred, the director shall:

- 13 (1) Affirm or modify any penalties imposed or shall modify  
14 or affirm the order previously issued; or  
15 (2) Issue an appropriate order or orders for the  
16 prevention, abatement, or control of the violation  
17 involved, or for the taking of such other corrective  
18 action as may be appropriate. If, after a hearing on  
19 an order or penalty contained in a notice, the  
20 director finds that no violation has occurred or is  
21 occurring, the director shall rescind the order or  
22 penalty. Any order issued after hearing may prescribe



1           the date or dates by which the violation or violations  
2           shall cease and may prescribe timetables for necessary  
3           action in preventing, abating, or controlling the  
4           violation.

5           (e) If the amount of any penalty is not paid to the  
6           department within thirty days after it becomes due and payable,  
7           the director may institute a civil action in the name of the  
8           State to collect the administrative penalty which shall be a  
9           government realization. In any proceeding to collect the  
10          administrative penalty imposed, the director need only show  
11          that:

12           (1) Notice was given;

13           (2) A hearing was held or the time granted for requesting  
14           a hearing expired without a request for a hearing;

15           (3) The administrative penalty was imposed; and

16           (4) The penalty remains unpaid.

17           (f) In connection with any hearing held pursuant to this  
18          section, the director shall have the power to subpoena the  
19          attendance of witnesses and the production of evidence on behalf  
20          of all parties."

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



1           "~~§339D-9 [Administrative penalties, fees.] Penalties.~~

2   ~~[(a) In addition to any other administrative or judicial remedy~~  
3   ~~provided by this chapter or by rules adopted under this chapter~~  
4   ~~for a violation thereof, the department is authorized to impose~~  
5   ~~by order administrative penalties and is further authorized to~~  
6   ~~set, charge, and collect administrative fines and to recover~~  
7   ~~administrative fees and costs, including attorney's fees and~~  
8   ~~costs, or to bring legal action to recover administrative fines~~  
9   ~~and fees and costs, including attorney's fees and costs.~~

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

15   ~~22.]~~ (a) Any person who violates any provision of this chapter  
16   or any rule adopted pursuant to chapter 91 shall be fined not  
17   more than \$10,000 for each separate offense. Each day of each  
18   violation shall constitute a separate offense. Any action taken  
19   to impose or collect the penalty provided for in this section  
20   shall be made through administrative, civil, or criminal  
21   actions.



1        (b) If a manufacturer fails to recycle its goal amount,  
2 the department shall impose a penalty of up to one dollar and  
3 fifty cents per pound for each pound of the goal amount not  
4 recycled."

5        SECTION 14. Section 339D-10, Hawaii Revised Statutes, is  
6 amended to read as follows:

7        "~~{}~~**§339D-10**~~{}—Electronic] Electric device recycling fund.~~

8        (a) There is established in the state treasury the [~~electronic~~]  
9 electric device recycling fund into which shall be deposited all  
10 fees, payments, and penalties collected by the department  
11 pursuant to this chapter.

12        (b) The [~~electronic~~] electric device recycling fund shall  
13 be administered by the department of health. Moneys in the fund  
14 shall be expended by the director solely for the purpose of  
15 implementing and enforcing this chapter."

16        SECTION 15. Section 339D-11, Hawaii Revised Statutes, is  
17 repealed.

18        [~~§339D-11 Financial and proprietary information, report.~~

19 ~~(a) Notwithstanding any law to the contrary, financial or~~  
20 ~~proprietary information, including trade secrets, commercial~~  
21 ~~information, and business plans, submitted to the department~~





1 ~~under this chapter is confidential and is exempt from public~~  
2 ~~disclosure to the extent permitted by chapter 92F.~~

3 ~~(b) The department shall compile the information submitted~~  
4 ~~by covered television manufacturers and issue a report to the~~  
5 ~~legislature no later than April 1, 2012, and annually each year~~  
6 ~~thereafter." ]~~

7 SECTION 16. Section 339D-12 , Hawaii Revised Statutes, is  
8 repealed.

9 [~~"§339D-12 Federal preemption. (a) Part II of this~~  
10 ~~chapter shall be deemed repealed if a federal law or a~~  
11 ~~combination of federal laws takes effect that establishes a~~  
12 ~~national program for the collection and recycling of covered~~  
13 ~~electronic devices that substantially meets the intent of part~~  
14 ~~II of this chapter, including the creation of a financing~~  
15 ~~mechanism for collection, transportation, and recycling of all~~  
16 ~~covered electronic devices from covered entities in the United~~  
17 ~~States.~~

18 ~~(b) [Part IV] of this chapter shall be deemed repealed if~~  
19 ~~a federal law or a combination of federal laws takes effect that~~  
20 ~~establishes a national program for the recycling of covered~~  
21 ~~televisions that substantially meets the intent of [part IV] of~~  
22 ~~this chapter." ]~~



1 SECTION 17. Part IV of Chapter 339D, Hawaii Revised  
2 Statutes, is repealed.

3 SECTION 18. In codifying the new sections added by section  
4 4 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used in designating  
6 the new sections in this Act.

7 SECTION 19. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 20. This Act, upon its approval, shall take effect  
10 on July 1, 2013.



**Report Title:**

Recycling; Electric Devices

**Description:**

Amends and expands the Electronic Waste and Television Recycling and Recovery Act. Effective July 1, 2013. (HB904 HD1)

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

