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JAN 23 2014

A BILL FOR AN ACT

RELATING TO ELECTRONIC WASTE RECYCLING.

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

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

3 1. By adding a new definition to be appropriately inserted
4 and to read:

5 ""Collector" means a person that accepts covered electronic
6 devices, covered televisions, or peripherals for delivery to a
7 recycler for the purposes of this chapter."

8 2. By adding a new definition to be appropriately inserted
9 and to read:

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

12 3. By adding a new definition to be appropriately inserted
13 and to read:

14 ""Recycler" means any person who engages in the recycling
15 of covered electronic devices or covered televisions for the
16 purposes of this chapter."

17 4. By deleting the definition of "market share".

18 [~~""Market share":~~

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- 1 ~~(1) Means the calculation of a television manufacturer's~~
2 ~~prior year's sales of televisions divided by all~~
3 ~~manufacturers' prior year's sales for all televisions,~~
4 ~~as determined by the department;~~
5 ~~(2) May be expressed as a percentage, a fraction, or a~~
6 ~~decimal fraction."]~~

7 SECTION 2. Part III, chapter 339D, Hawaii Revised
8 Statutes, is amended by adding ten new sections to be
9 appropriately designated and to read as follows:

10 "§339D-A Manufacturer recycling goals. (a) The
11 department shall use the best available information to establish
12 the weight of all covered electronic devices and covered
13 televisions sold in the State, including but not limited to the
14 reports submitted pursuant to subsection 339D-D, state and
15 national sales data, and other reliable commercially available
16 supplemental sources of information.

17 (b) No later than September 1, 2014, and annually
18 thereafter, the department shall notify each manufacturer of its
19 recycling obligation.

20 (c) Beginning in 2015, each covered electronic device and
21 covered television manufacturer shall collect and recycle the
22 equivalent of fifty per cent, by weight, of its covered

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1 electronic devices and covered televisions sold in the State two
2 years prior.

3 (d) Manufacturers may collect and recycle covered
4 electronic devices, covered televisions, or peripherals to meet
5 their recycling goal.

6 **§339D-B Manufacturer recycling plan requirements.** (a)
7 Recycling plans required by sections 339D-4 and 339D-23 shall
8 include the street addresses and zip codes of the collection
9 sites to be utilized.

10 (b) The plan must provide for at least one collection
11 service in every county and zip code tabulation areas with a
12 population greater than thirty thousand, as defined by the
13 United States Census Bureau, throughout the state, unless the
14 plan provides documentation that the county and zip code
15 tabulation area(s) for which the plan does not provide a
16 collection service is already adequately covered by the
17 collection plan of another manufacturer or group of
18 manufacturers.

19 (c) The recycling plan shall include at least one of the
20 following collection services:

21 (1) Staffed drop-off site; or

22 (2) Alternative collection service such as on-site pick-up
23 service; or

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1 (3) Collection events held at an easily accessible,
2 central location.

3 (d) Collection services shall be provided at a minimum of
4 once in each month of the year.

5 (e) Plans that contain only a mail-back option shall not
6 be allowed.

7 (f) Plans shall specify the use of only collectors
8 registered, for the purposes of this chapter, with the State;
9 and

10 (g) Plans shall specify the use of recyclers that have
11 achieved and maintained third-party accredited certification
12 from the Responsible Recycling (R2) Practices Standard, the e-
13 Stewards Standard; or an internationally accredited third-party
14 environmental management standard for the safe and responsible
15 handling of electronic waste.

16 **339D-C Convenience fee.** If the department determines that
17 manufacturer plans fail to meet the requirements of section
18 339D-B, then manufacturers shall be assessed a convenience fee
19 of \$10,000 for each covered electronic device manufacturer, and
20 \$5,000 for each covered television manufacturer.

21 **§339D-D Manufacturer record keeping requirements.** (a)
22 Each manufacturer shall maintain records for a minimum five
23 years for the following:

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- 1 (1) The amount, in weight, of sales of their covered
2 electronic devices and covered televisions in the
3 State annually;
- 4 (2) The amount of covered electronic devices, covered
5 televisions and peripherals it has collected for
6 recycling by county; and
- 7 (3) The amount of covered electronic devices, covered
8 televisions, and peripherals recycled by each recycler
9 on behalf of the manufacturer.

10 (b) Nothing in this part shall exempt any person from
11 liability that the person would otherwise have under applicable
12 law.

13 **§339D-E Manufacturer reporting requirements.** (a) By
14 August 1, 2014, and annually thereafter, each manufacturer shall
15 report to the department its sales, by weight, of the
16 manufacturer's covered electronic devices and covered
17 televisions sold in the State the previous calendar year,
18 categorized by product type.

19 (b) If the manufacturer is unable to provide accurate
20 sales data, it shall explain why the data cannot be provided.
21 The manufacturer shall then report an estimate of its sales data
22 and provide an explanation of the methods used to derive the
23 estimate.

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1 (c) By March 31, 2016, and annually thereafter, each
2 manufacturer shall report to the department the total weight of
3 all covered electronic devices, covered televisions, and
4 peripherals it recycled, by county, in the previous year.
5 Reports shall be submitted on forms prescribed by the
6 department.

7 **§339D-F Collector registration.** (a) By January 1, 2015,
8 all collectors shall register with the department using forms
9 prescribed by the department. Thereafter, if a collector has
10 not previously registered, the collector shall register with the
11 department prior to accepting covered electronic devices,
12 covered televisions, or peripherals. A registration shall be
13 valid until December 31 of each year.

14 (b) Every collector shall submit an annual renewal of its
15 registration by January 1 of each year.

16 **§339D-G Collector record keeping requirements.** Collectors
17 shall maintain records, for a minimum of five years, for the
18 amounts, in weight, of covered electronic devices, covered
19 televisions and peripherals it has collected for recycling; and
20 the amounts sent for recycling.

21 **§339D-H Collector reporting requirements.** By March 31,
22 2016, and annually thereafter, each collector shall report to

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1 the department on forms prescribed by the department the
2 following:

3 (1) The amount, in weight, of covered electronic devices,
4 covered televisions, and peripherals it has collected
5 for recycling and the amounts sent for recycling; and

6 (2) Bills of lading or weight tickets for all covered
7 electronic devices, covered televisions, and
8 peripherals sent for recycling; and

9 (3) Certificates of recycling for all covered electronic
10 devices, covered televisions, and peripherals
11 recycled.

12 **§339D-I Collector responsibility.** All collected covered
13 electronic devices, covered televisions, and peripherals shall
14 be sent for recycling.

15 **§339D-J Audit authority.** The records of covered
16 electronic device manufacturers, covered television
17 manufacturers, collectors, and recyclers shall be made
18 available, upon request, for inspection by the department, a
19 duly authorized agent of the department, or the office of the
20 auditor."

21 SECTION 3. Section 339D-4, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:

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1 "(c) By [~~June 1, 2009~~] October 1, 2014, and annually
2 thereafter, each electronic device manufacturer shall submit a
3 plan to the department to establish, conduct, and manage a
4 program for the collection, transportation, and recycling of its
5 covered electronic devices [~~sold in the State~~], which shall be
6 subject to the following conditions:

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

17 (2) Each electronic device manufacturer may develop its
18 own recycling program or may collaborate with other
19 electronic device manufacturers, so long as the
20 program is implemented and fully operational no later
21 than January 1, 2010."

22 SECTION 4. Section 339D-4, Hawaii Revised Statutes, is
23 amended by amending subsection (g) to read as follows:

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1 "(g) The department shall review each electronic device
2 manufacturer's plan and, within sixty days of receipt of the
3 plan, shall determine whether the plan complies with this part.
4 If the plan is approved, the department shall notify the
5 electronic device manufacturer or group of electronic device
6 manufacturers. If the plan is rejected, the department shall
7 notify the electronic device manufacturer or group of electronic
8 device manufacturers and provide the reasons for the plan's
9 rejection. Within thirty days after receipt of the department's
10 rejection, the electronic device manufacturer or group of
11 electronic device manufacturers [~~may~~] shall revise and resubmit
12 the plan to the department for [~~approval.~~] review under the
13 requirements of this subsection."

14 SECTION 5. Section 339D-11, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

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

20 SECTION 6. Section 339D-23, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:

22 "(b) By [~~June 1, 2010,~~] October 1, 2014, and annually
23 thereafter, each television manufacturer shall submit a plan to

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1 the department to establish, conduct, and manage a program for
2 the recycling of covered televisions sold in the State, which
3 shall be subject to the following conditions:

- 4 (1) The plan shall not permit the charging of a fee at the
5 point of recycling if the covered television is
6 brought by the covered television owner to a central
7 location for recycling; provided that the plan may
8 include a reasonable transportation fee if the
9 television manufacturer or television manufacturer's
10 agent removes the covered ~~[electronic device]~~
11 television from the owner's premises at the owner's
12 request and if the removal is not in conjunction with
13 delivery of a new television to the owner; and
- 14 (2) Each television manufacturer may develop its own
15 recycling program or may collaborate with other
16 television manufacturers, so long as the program is
17 implemented and fully operational no later than
18 January 1, 2011."

19 SECTION 7. Section 339D-9, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§339D-9 Administrative penalties; fees.** [~~(a)~~] In
22 addition to any other administrative or judicial remedy provided
23 by this chapter or by rules adopted under this chapter for a

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1 violation thereof, the department is authorized to impose by
2 order administrative penalties and is further authorized to set,
3 charge, and collect administrative fines and to recover
4 administrative fees and costs, including attorney's fees and
5 costs, or to bring legal action to recover administrative fines
6 and fees and costs, including attorney's fees and costs.

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,~~
10 ~~television manufacturers, or retailers for recovery of covered~~
11 ~~televisions except those noted in sections 339D-4 and 339D-22.]"~~

12 SECTION 8. In codifying the new sections added by this
13 Act, the revisor of statutes shall substitute appropriate
14 section numbers for the letters used in designating the new
15 sections in this Act.

16 SECTION 9. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act, upon its approval, shall take effect
19 on July 1, 2014.

20

21

INTRODUCED BY:



22

BY REQUEST

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Report Title:

Recycling; Electronic Devices

Description:

Amends the Electronic Device and Television Recycling Program

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

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JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO ELECTRONIC WASTE RECYCLING.

PURPOSE: Strengthen the Electronic Waste and Television Recycling and Recovery Act.

MEANS: Add ten new sections to Part III, chapter 339D, Hawaii Revised Statutes (HRS), and amend sections 339D-1, 339D-4(c) and (g), 339D-11(b), and 339D-23(b); and repeal subsection 339D-9(b), HRS.

JUSTIFICATION: The current chapter 339D requires computer and television manufacturers to offer recycling programs in Hawaii. However, the law lacks performance criteria for the recycling programs. While some manufacturers are funding manned collection sites, others persist in offering only mail-back recycling programs. The existing manufacturer funded programs are not guaranteed to continue operations because of the lack of program requirements in statute.

Implementing program requirements will bring long term stability to the program and will ensure predictable and convenient service to the public.

At present, the chapter does not require manufacturers to prove that collected material is recycled. The proposed record keeping and reporting requirements will help ensure that material is properly recycled.

Impact on the public: Implementing the proposed changes will help to ensure that the public has a stable and effective electronics recycling program.

Impact on the department and other agencies: Implementing the changes would alleviate the

burden on the counties which have been forced to meet the public demand to recycle used electronics by implementing their own electronic recycling programs.

The department would be able to 1) require manufacturers to offer convenient (and thus more effective) recycling programs, and; 2) ensure that electronic waste collected under the program is properly recycled.

GENERAL FUND: No impact.

OTHER FUNDS: No impact.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: July 1, 2014.