

1 S.256
2 Introduced by Senator Lyons of Chittenden District and Senator Ayer of
3 Addison District
4 Referred to Committee on
5 Date:
6 Subject: Conservation; electronics; e-waste
7 Statement of purpose: This bill proposes to implement a system for the
8 collection and recycling of electronic devices.

9 AN ACT RELATING TO THE DISPOSAL OF ELECTRONIC WASTE

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. LEGISLATIVE FINDINGS

12 The general assembly finds:

13 (1) Televisions and computers are prevalent in modern society and
14 contribute significantly to the waste generated in Vermont.

15 (2) Televisions, computers, laptop computers, and computer monitors
16 contain lead, mercury, and other hazardous substances that pose a threat to
17 human health and the environment if improperly disposed of at the end of the
18 useful life of these products.

1 (3) The state of Vermont has committed to providing its citizens with a
2 safe and healthy environment and has actively undertaken efforts such as
3 mercury reduction programs to reduce the potential for contamination.

4 (4) The recycling of televisions and computers protects public health
5 and the environment by reducing the potential for the release of heavy metals
6 and mercury from landfills into the environment, consistent with other state
7 initiatives, and also conserving valuable landfill space.

8 (5) The establishment of a system to provide for the collection and
9 recycling of electronic devices in Vermont is consistent with the state's duty to
10 protect the health, safety, and welfare of its citizens; maintain and enhance the
11 quality of the environment; conserve natural resources; prevent pollution of air,
12 water, and land; and stimulate economic growth.

13 Sec. 2. 10 V.S.A. chapter 166 is added to read:

14 CHAPTER 166. DISPOSAL OF ELECTRONIC DEVICES

15 § 7301. DEFINITIONS

16 For the purposes of this chapter, the following terms shall have the
17 following meanings:

18 (1) "Agency" means the agency of natural resources.

19 (2) "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube
20 used to convert an electronic signal into a visual image.

1 (3) “Collection” means the aggregation of covered electronic devices
2 from households and includes all the activities up to the time the covered
3 electronic devices are delivered to a recycler.

4 (4) “Collector” means a public or private entity that receives covered
5 electronic devices from households and arranges for the delivery of the devices
6 to a recycler.

7 (5) “Computer” means machine designed to manipulate data according
8 to a list of instructions known as a program and is generally known as a
9 desktop, laptop, or portable computer. “Computer” does not include the
10 following:

11 (A) Computer servers marketed to professional users; or

12 (B) Retail store terminals or cash registers used at customer checkout
13 in the retail industry.

14 (6) “Computer monitor” means a display device without a tuner that can
15 display pictures and sound and is used with a computer. “Computer monitor”
16 includes a laptop computer.

17 (7) “Covered electronic device” includes a desktop computer monitor; a
18 television with a screen size greater than four inches measured diagonally;
19 personal electronics – PDAs, personal music players (iPods, MP3s, etc.);
20 electronic game consoles; computer peripherals (e.g., mice, keyboard,
21 modems, scanners); desktop printers, including “all-in-one” machines with

1 multiple functions such as print, fax, scan, copy; fax machines; digital
2 converter boxes; and power supply cords (as used to charge electronic devices)
3 that are sold to a covered entity.

4 (8) "Covered entity" means any person, household, charity, school
5 district, business, municipality, or other government entity located in the state.

6 (9) "Dwelling unit" means a building or part of a building used as a
7 home, residence, or sleeping place by one or more persons who maintain a
8 household.

9 (10) "Environmentally sensitive materials" include each of the
10 following, and any equipment or component destined for recycling or disposal,
11 or any aggregate material derived from end-of-life equipment or components
12 (e.g., shredded, granulated, or mixed materials), whether destined for recycling
13 or disposal, containing any of the following:

14 (A) Any devices containing mercury or PCBs, including fluorescent
15 lamps;

16 (B) CRTs and leaded CRT glass, including processed and
17 unprocessed glass cullet;

18 (C) Circuit boards (whole, shredded, or in any other form);

19 (D) Batteries; or

20 (E) Toner.

1 (11) “Household” means an occupant of a single detached dwelling unit
2 or a single unit of a multiple dwelling unit located in this state who has used a
3 video display device at a dwelling unit primarily for personal use.

4 (12) “Manufacturer” means a person who:

5 (A) Has a physical presence and legal assets in the United States of
6 America and:

7 (i) Manufactures or manufactured a covered electronic device
8 under its own brand or label;

9 (ii) Sells or sold under its own brand or label a covered electronic
10 device produced by other suppliers; or

11 (iii) Owns a brand that it licenses or licensed to another person for
12 use on a covered electronic device; or

13 (B) Imports or imported a covered electronic device into the United
14 States that is manufactured by a person without a presence in the United States;
15 or

16 (C) Sells at retail a covered electronic product acquired from an
17 importer that is the manufacturer as described in subdivision (B) of this
18 subdivision (12) and elects to register in lieu of the importer.

19 (13) “Peripheral” means a keyboard, printer, or any other device sold
20 exclusively for external use with a computer that provides input or output into
21 or from a computer.

1 (14) “Program year” means the period from July 1 through June 30.

2 (15) “Recycler” means a public or private individual or entity who
3 accepts covered electronic devices from households and collectors for the
4 purpose of recycling. A manufacturer who takes products for refurbishment or
5 repair is not a recycler.

6 (16) “Recycling” means the process of collecting and preparing video
7 display devices or covered electronic devices for use in manufacturing
8 processes or for recovery of useable materials followed by delivery of such
9 materials for use. Recycling does not include destruction by incineration,
10 waste-to-energy incineration, or other such processes; land disposal; or reuse,
11 repair, or any other process through which video display devices or covered
12 electronic devices are returned to use for households in their original form.

13 (17) “Recycling credits” means the number of pounds of covered
14 electronic devices recycled by a manufacturer from households during a
15 program year, less the product of the number of pounds of video display
16 devices sold to households during the same program year, multiplied by the
17 proportion of sales a manufacturer is required to recycle. The calculation and
18 uses of recycling credits are as specified in section 7303 of this title.

19 (18) “Retailer” means a person who sells, rents, or leases to a household,
20 through sales outlets, catalogues, or the Internet, a video display device that is
21 not for resale in any form.

1 (19) “Sell or sale” means any transfer for consideration of title or of the
2 right to use, by lease or sales contract, including, but not limited to,
3 transactions conducted through sales outlets, catalogs, or the internet, or any
4 other similar electronic means either inside or outside the state, by a person
5 who conducts the transaction and controls the delivery of a video display
6 device to a consumer in the state, but does not include a manufacturer’s or
7 distributor's wholesale transaction with a distributor or retailer.

8 (20) “Television” means any telecommunications system or device that
9 can broadcast or receive moving pictures and sound over a distance and
10 includes a television tuner or a display device peripheral to a computer that
11 contains a television tuner.

12 (21) “Video display device” includes units capable of presenting images
13 electronically on a screen, with a viewable area greater than four inches when
14 measured diagonally, viewed by the user and that may include cathode ray
15 tubes, flat panel computer monitors, plasma displays, liquid crystal displays,
16 rear and front enclosed projection devices, and other similar displays that may
17 be developed. “Video display device” does not include any of the following:

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

1 (B) a video display device, including a touch-screen display, that
2 is functionally or physically part of a larger piece of equipment or is
3 designed and intended for use in a setting that is industrial; commercial,
4 including retail; a library checkout; a traffic control; a kiosk; security, other
5 than household security; a border control; or a medical setting, including
6 diagnostic, monitoring, or control equipment;

7 (C) a video display device that is contained within a clothes
8 washer, clothes dryer, refrigerator, refrigerator and freezer, microwave
9 oven, conventional oven or range, dishwasher, room air conditioner,
10 dehumidifier, or air purifier; or

11 (D) a telephone of any type unless it contains a video display area
12 greater than nine inches when measured diagonally.

13 § 7302. REGISTRATION PROGRAM

14 (a) Requirements for sale.

15 (1) On or after July 1, 2009, a manufacturer must not sell or offer for
16 sale or deliver to retailers for subsequent sale a new video display device
17 unless:

18 (A) the video display device is labeled with the manufacturer's
19 brand, which label is permanently affixed and readily visible; and

20 (B) the manufacturer has filed a registration with the agency, as
21 specified in section 7303 of this title.

1 (2) On or after July 1, 2009, a retailer who sells or offers for sale a new
2 video display device to a household must, before the initial offer of sale,
3 review the agency web site specified in section 7303 of this title to determine
4 that all new video display devices that the retailer is offering for sale are
5 labeled with the manufacturer's brands that are registered with the agency.

6 (3) A retailer is not responsible for an unlawful sale under this
7 subdivision if the manufacturer's registration expired or was revoked, the
8 retailer took possession of the video display prior to the expiration or
9 revocation of the manufacturer's registration, and the unlawful sale occurred
10 within six months after the expiration or revocation.

11 (b) Manufacturer registration.

12 (1) A manufacturer of video display devices sold or offered for sale to
13 households after July 1, 2009 must submit a registration to the agency that
14 includes:

15 (A) a list of the manufacturer's brands of video display devices
16 offered for sale in this state;

17 (B) the name, address, and contact information of a person
18 responsible for ensuring compliance with this chapter; and

19 (C) a certification that the manufacturer has complied and will
20 continue to comply with the requirements of this chapter.

1 (2) By July 1, 2010, and each year thereafter, a manufacturer of video
2 display devices sold or offered for sale to a household must include in the
3 registration submitted under subdivision (1) of this subsection a statement
4 disclosing whether:

5 (A) any video display devices sold to households exceed the
6 maximum concentration values established for lead, mercury, cadmium,
7 hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated
8 diphenyl ethers (PBDEs) under the RoHS (restricting the use of certain
9 hazardous substances in electrical and electronic equipment) Directive
10 2002/95/EC of the European Parliament and Council and any amendments
11 thereto enacted as of the date of passage of this act; or

12 (B) the manufacturer has received an exemption from one or more of
13 those maximum concentration values under the RoHS Directive that has been
14 approved and published by the European Commission.

15 (3) A manufacturer who begins to sell or offer for sale video display
16 devices to households after July 1, 2009 and has not filed a registration under
17 this subdivision must submit a registration to the agency within ten days of
18 beginning to sell or offer for sale video display devices to households.

19 (4) A registration must be updated within ten days after a change in the
20 manufacturer's brands of video display devices sold or offered for sale to
21 households.

1 (5) A registration is effective upon receipt by the agency and is valid
2 until July 1 of each year.

3 (6) The agency must review each registration and notify the
4 manufacturer of any information required by this title that is omitted from the
5 registration. Within 30 days of receipt of a notification from the agency, the
6 manufacturer must submit a revised registration providing the information
7 noted by the agency.

8 (7) The agency must maintain on its web site the names of
9 manufacturers and the manufacturer's brands listed in registrations filed with
10 the agency. The agency must update the web site information promptly upon
11 receipt of a new or updated registration. The web site must contain prominent
12 language stating, in effect, that this chapter is directed at household equipment,
13 and the manufacturers' brands list is, therefore, not a list of manufacturers
14 qualified to sell to industrial, commercial, or other markets identified as
15 exempt from the requirements of this chapter.

16 (c) Collector and transporter registration. After July 1, 2009, no person
17 may operate as a collector or transporter of covered electronic devices from
18 households unless that person has submitted a registration with the agency on a
19 form prescribed by the secretary. Registration information must include the
20 name, address, telephone number, and location of the business and a
21 certification that the collector or transporter has complied and will continue to

1 comply with the requirements of this chapter. A registration is effective upon
2 receipt by the agency and is valid until July 1 of each year. Collectors and
3 transporters will comply with rules as established by the agency.

4 (d) Recycler registration. After July 1, 2009, no person may recycle video
5 display devices generated by households unless that person has submitted a
6 registration with the agency on a form prescribed by the commissioner.

7 Registration information must include the name, address, telephone number,
8 and location of all recycling facilities under the direct control of the recycler
9 that may receive video display devices from households and a certification that
10 the recycler has complied and will continue to comply with the requirements of
11 this chapter as well as the rule established by the agency. A registered recycler
12 may conduct recycling activities that are consistent with this chapter. A
13 registration is effective upon receipt by the agency and is valid until July 1 of
14 each year.

15 § 7303. MANUFACTURER'S REGISTRATION FEE; CREATION OF
16 ACCOUNT

17 (a) Registration fee.

18 (1) By July 1 of each year, all manufacturers who register under section
19 7302 of this title must pay to the agency an annual registration fee. The
20 commissioner must deposit the fee into the account established by this section.

1 (2) The registration fee for the initial program year during which a
2 manufacturer's video display devices are sold is \$5,000.00. Each year
3 thereafter, the registration fee is equal to a base of \$2,500.00, plus a variable
4 recycling fee calculated according to the formula in subdivision (3) of this
5 subsection.

6 (3) Using quantities from the preceding program year, the variable
7 recycling fee shall be an amount equal to the pounds required to have been
8 recycled under this chapter minus the pounds reported recycled, multiplied by
9 the estimated per-pound cost of recycling. The variable recycling fee shall be
10 calculated according to the formula: variable recycling fee = ((A x B) –
11 (C+D)) x E, where:

12 (A) A = the number of pounds of a manufacturer's video display
13 device sold to households during the previous program year, as reported to the
14 agency under section 7305 of this title;

15 (B) B = the proportion of sales of video display devices required to
16 be recycled, set at 0.6 for the first program year and at 0.8 for the second
17 program year and every year thereafter;

18 (C) C = the number of pounds of recovered electronic devices
19 recycled by a manufacturer from households during the previous program year,
20 as reported to the agency under section 7305 of this title;

1 (D) D = the number of recycling credits a manufacturer elects to use
2 during the current program year to calculate the variable recycling fee, as
3 reported to the agency under section 7305 of this title; and

4 (E) E = the estimated per-pound cost of recycling used to calculate
5 the variable recycling fee, initially set at \$0.50 per pound for manufacturers
6 who recycle less than 50 percent of the product required to be recycled under
7 this chapter (A x B); \$0.40 per pound for manufacturers who recycle at least 50
8 percent but less than 90 percent of the product required to be recycled under
9 this chapter (A x B); and \$0.30 per pound for manufacturers who recycle at
10 least 90 percent but less than 100 percent of the product required to be recycled
11 under this chapter (A x B).

12 (4) For the purpose of calculating the variable recycling fee for a given
13 year, a manufacturer may carry recycling credits forward from any of the three
14 preceding program years to be added, in whole or in part, to the number of
15 pounds reported recycled. Recycling credits are created when the number of
16 pounds reported recycled exceeds the number of pounds required to have been
17 recycled under this chapter according to the formula: $credit = C - (A \times B)$,
18 where A, B, and C are defined as in subdivision (a)(3) of this section. A
19 manufacturer may sell any portion of its recycling credits to another
20 manufacturer, at a price negotiated by the parties, who may use the credits in
21 the same manner and subject to the same three-year limitation.

1 (5) For the purpose of calculating a manufacturer's variable recycling
2 fee under subdivision (a)(2) of this section, the weight of covered tested and
3 working electronic devices collected and donated for reuse, as defined in this
4 subdivision, is calculated at 1.5x their actual weight. Donations of covered
5 electronics must be free of charge to any nonprofit corporation located in the
6 state and recognized under Section 501(3) of the Internal Revenue Code,
7 whose principal mission is to assist low-income children or families living in
8 the state. To qualify for the donation credits under this subdivision,
9 manufacturers must ensure the delivery of a covered electronic device that:

10 (A) is no older than six years old;

11 (B) where applicable, has a functioning operating system;

12 (C) is in full working condition; and

13 (D) has been approved in writing for donation by the recipient.

14 (6) The registration fee for the initial program year and the base
15 registration fee thereafter for a manufacturer who produces fewer than 100
16 video display devices for sale annually to households is \$1,250.00.

17 (b) Creation of account; appropriations.

18 (1) The electronic waste management fund is established as a special
19 fund. The secretary of the agency must deposit receipts from the fee
20 established under this chapter in the account. Any interest earned on the
21 account must be credited to the account. Money from other sources may be

1 credited to the account. Beginning in the second program year and continuing
2 in each program year thereafter, as of the last day of each program year, the
3 secretary shall determine the total amount of the variable fees that were
4 collected.

5 (2) Any money in the account is annually appropriated to the agency for
6 the purpose of implementing this chapter.

7 § 7304. REPORTING REQUIREMENTS

8 (a) Manufacturer's reporting requirements.

9 (1) By July 1 of each year, beginning July 1, 2010, each manufacturer
10 must report to the agency the total weight of each specific model of its video
11 display devices sold to households during the previous program year; along
12 with either:

13 (A) the total weight of its video display devices sold to households
14 during the previous program year; or

15 (B) an estimate of the total weight of its video display devices sold to
16 households during the previous program year based on national sales data. A
17 manufacturer must submit with the report required under this subsection a
18 description of how the information or estimate was calculated.

19 (2) By July 1 of each year, beginning July 1, 2010, each manufacturer
20 must report to the agency the total weight of covered electronic devices the
21 manufacturer collected from households and recycled or arranged to have

1 collected and recycled during the preceding program year. If a manufacturer
2 wishes to receive the variable recycling rate of 1.5 for the covered electronic
3 devices it recycles, the manufacturer must report separately the total weight of
4 covered electronic devices collected in the state and donated to a nonprofit
5 organization as specified in subdivision 7303(a)(5) of this title.

6 (3) By July 1 of each year, beginning July 1, 2010, each manufacturer
7 must report to the agency:

8 (A) the number of recycling credits the manufacturer has purchased
9 and sold during the preceding program year;

10 (B) the number of recycling credits possessed by the manufacturer
11 that the manufacturer elects to use in the calculation of its variable recycling
12 fee under this chapter; and

13 (C) the number of recycling credits the manufacturer retains at the
14 beginning of the current program year.

15 (b) Recycler's reporting requirements. By July 1 of each year, beginning
16 July 1, 2010, a recycler of covered electronic devices must report to the agency
17 the total weight of covered electronic devices recycled during the preceding
18 program year and must certify that the recycler has complied with subsection
19 3707(b) of this title.

20 (c) Collector's reporting requirements. By July 1 of each year, beginning
21 July 1, 2010, a recycler of covered electronic devices must report to the agency

1 the total pounds of covered electronic devices collected and a list of all
2 recyclers to whom collectors delivered covered electronic devices.

3 § 7305. RESPONSIBILITIES

4 (a) Manufacturer's responsibilities. Manufacturers must comply with the
5 following:

6 (1) A manufacturer must annually recycle or arrange and pay for the
7 collection and recycling of an amount of covered electronic devices equal to
8 the total weight of its video display devices sold to households during the
9 preceding program year, multiplied by the proportion of sales of video display
10 devices required to be recycled as established by the agency under section
11 7306 of this title. Recycling fees may not be charged at the time of collecting
12 the unwanted covered electronic devices.

13 (2) The obligations of a manufacturer apply only to video display
14 devices received from households and do not apply to video display devices
15 received from sources other than households.

16 (3) A manufacturer must conduct and document due diligence
17 assessments of the collectors and recyclers with whom it contracts, including
18 an assessment of items specified under subsection (b) of this section. A
19 manufacturer is responsible for maintaining, for a period of three years,
20 documentation that all video display devices recycled, partially recycled, or
21 sent to downstream recycling operations comply with the requirements of

1 subsection (b) of this section. A manufacturer must provide documentation of
2 an audit of each recycler with whom it contracts.

3 (4) A manufacturer operating its own recycling program must
4 demonstrate that its programs are in compliance with the responsibilities
5 imposed upon recyclers under subsection (b) of this section.

6 (5) A manufacturer must provide the agency with contact information
7 for a person who can be contacted regarding the manufacturer's activities
8 under this chapter.

9 (b) Recycler's responsibilities. As part of the report submitted under
10 subsection 7304(b) of this title, recyclers participating in the state e-waste
11 recycling program (receiving e-waste that is being used toward meeting annual
12 recycling goals) must provide to the agency a sworn certification that their
13 handling, processing, refurbishment, and recycling of covered electronic
14 devices:

15 (1) meet guidelines for environmentally sound management published
16 by the agency;

17 (2) comply with and ensure that all their downstream vendors comply
18 with all local, state, and federal regulations throughout final disposition, and
19 must not violate laws in importing and transit countries when exporting
20 environmentally sensitive materials;

21 (3) are licensed by all applicable governmental authorities; and

1 (4) possess liability insurance of not less than \$1,000,000.00 for
2 environmental releases, accidents, and other emergencies.

3 (c) Retailer's responsibilities.

4 (1) By July 1 of each year, beginning July 1, 2010, a retailer must report
5 to a manufacturer the number of video display devices, by video display
6 devices model, labeled with the manufacturer's brand sold to households
7 during the previous program year.

8 (2) A retailer who sells new video display devices shall provide
9 information to households describing where and how they may recycle video
10 display devices and advising them of opportunities and locations for the
11 convenient collection of video display devices for the purpose of recycling.
12 This requirement may be met by providing to households the agency's toll-free
13 number and web site address. Retailers selling through catalogues or the
14 internet may meet this requirement by including the information in a prominent
15 location on the retailer's web site.

16 § 7306. AGENCY DUTIES

17 Duties of the agency.

18 (1) The agency shall administer this chapter.

19 (2) The agency shall establish procedures for:

20 (A) receipt and understanding of the registration statements and
21 certifications filed with the agency under this chapter; and

1 (B) making the statements and certifications easily available to
2 manufacturers, retailers, and members of the public.

3 (3) The agency shall collect the data submitted to it annually by each
4 manufacturer on the total weight of each specific model of video display
5 device sold to households, if provided; the total weight of video display
6 devices sold to households; the total weight of covered electronic devices
7 collected from households which are recycled; and data on recycling credits, as
8 required under section 7304 of this title. The agency shall use this data to
9 review each manufacturer's annual registration fee to ensure that the fee was
10 calculated accurately according to the formula in section 7303 of this title.

11 (4)(A) The agency shall annually review the value of the following
12 variables that are part of the formula used to calculate a manufacturer's annual
13 registration fee under section 7303 of this title:

14 (i) the proportion of sales of video display devices sold to
15 households that manufacturers are required to recycle;

16 (ii) the estimated per-pound price of recycling covered electronic
17 devices sold to households;

18 (iii) the base registration fee; and

19 (iv) the multiplier established for the weight of covered electronic
20 devices collected in subdivision 7303(a)(5) of this title.

1 (B) If the agency determines that any of these values must be
2 changed in order to improve the efficiency or effectiveness of the activities
3 regulated under this chapter or if the revenues in the account exceed the
4 amount that the agency determines is necessary, the agency shall submit
5 recommended changes and the reasons for them to the chairs of the senate and
6 house committees with jurisdiction over solid waste policy.

7 (5) By July 1 each year, beginning in 2010, the agency must estimate,
8 for each registered manufacturer, the sales of video display devices to
9 households during the previous year, based on:

10 (A) data provided by a manufacturer on sales of video display
11 devices to households, including documentation describing how that amount
12 was calculated and certification that the amount is accurate; or

13 (B) if a manufacturer does not provide the data specified in
14 subdivision (A) of this subdivision (5), national data on sales of video display
15 devices.

16 (6) The agency shall manage the account established in subsection
17 7303(b) of this title. If the revenues in the account exceed the amount that the
18 agency determines is necessary for the efficient and effective operation of the
19 program, including any amount for contingencies, the agency must recommend
20 to the general assembly that the base registration fee, the proportion of sales of
21 video display devices required to be recycled, or the estimated per-pound cost

1 of recycling established under section 7303 of this title, or any combination
2 thereof, be lowered in order to reduce the revenues collected in the subsequent
3 program year by the estimated amount of the excess.

4 (7) On or before December 1 of each year, beginning December 1, 2010,
5 the agency shall provide a report to the governor and general assembly on the
6 implementation of this chapter. For each program year, the report must discuss
7 the total weight of covered electronic devices recycled and a summary of
8 information in the reports submitted by manufacturers, collectors, and
9 recyclers under section 7304 of this title. The report must also discuss the
10 various collection programs used by manufacturers to collect covered
11 electronic devices; information regarding covered electronic devices that are
12 being collected by persons other than registered manufacturers, collectors, and
13 recyclers; and information about covered electronic devices, if any, being
14 disposed of in landfills in this state. The report must include a description of
15 enforcement actions under this chapter. The agency may include in its report
16 other information received by the agency regarding the implementation of this
17 chapter.

18 (8) The agency shall promote public participation in the activities
19 regulated under this chapter through public education and outreach efforts.

1 (9) The agency shall enforce this chapter in the manner provided for in
2 section 8003 of this title. The agency may revoke a registration of a collector
3 or recycler found to have violated this chapter.

4 (10) The agency shall facilitate communications between collection and
5 recycling centers and manufacturers to ensure that manufacturers are aware of
6 video display devices available for recycling.

7 (11) The agency shall develop a form retailers must use to report
8 information to manufacturers under section 7304 of this title and post it on its
9 web site.

10 (12) The agency shall post on its web site the contact information
11 provided by each manufacturer under section 7304 of this title.

12 (13) The agency shall establish guidelines for environmentally sound
13 management of consumer electronics, including specific requirements for
14 collectors, transporters, and processors.

15 § 7307. OTHER RECYCLING PROGRAMS

16 A municipality or other public agency may not require households to use
17 public facilities to recycle their covered electronic devices to the exclusion of
18 other lawful programs available. A municipality and other public agencies are
19 encouraged to work with manufacturers to assist them in meeting their
20 recycling obligations under this chapter. Nothing in this chapter prohibits or
21 restricts the operation of any program recycling covered electronic devices in

1 addition to those provided by manufacturers or prohibits or restricts any
2 persons from receiving, collecting, transporting, or recycling covered
3 electronic devices, provided that those persons are registered under section
4 7302 of this title.

5 § 7308. ANTICOMPETITIVE CONDUCT

6 (a) A manufacturer that organizes collection or recycling under this section
7 is authorized to engage in anticompetitive conduct to the extent necessary to
8 plan and implement its chosen organized collection or recycling system and is
9 immune from liability under state laws relating to antitrust, restraint of trade,
10 unfair trade practices, and other regulation of trade or commerce.

11 (b) An organization of manufacturers, an individual manufacturer, and its
12 officers, members, employees, and agents who cooperate with a political
13 subdivision that organizes collection or recycling under this chapter, are
14 authorized to engage in anticompetitive conduct to the extent necessary to plan
15 and implement the organized collection or recycling system, provided that the
16 political subdivision actively supervises the participation of each entity. An
17 organization, entity, or person covered by this subdivision is immune from
18 liability under state law relating to antitrust, restraint of trade, unfair trade
19 practices, and other regulation of trade or commerce.

1 § 7309. REQUIREMENTS FOR PURCHASE BY STATE AGENCIES

2 (a) All state agencies must ensure that acquisitions of video display devices
3 are in compliance with or not subject to this chapter.

4 (b) The solicitation documents must specify that the prospective responder
5 is required to cooperate fully in providing reasonable access to its records and
6 documents that evidence compliance with this chapter.

7 (c) Any person awarded a contract for purchase or lease of video display
8 devices that is found to be in violation of this chapter is subject to the
9 following sanctions:

10 (1) the contract must be voided if the potential impact to the state is
11 exceeded by the benefit obtained from voiding the contract;

12 (2) if the attorney general establishes that any money, property, or
13 benefit was obtained by a contractor as a result of violating this chapter, the
14 court may, in addition to any other remedy, order the disgorgement of the
15 unlawfully obtained money, property, or benefit.

16 § 7310. MULTISTATE IMPLEMENTATION

17 The agency is authorized to participate in the establishment of a regional
18 multistate organization or compact to assist in carrying out the requirements of
19 this chapter.

20 § 7311. LIMITATIONS

1 If a federal law or combination of federal laws take effect that are
2 applicable to all video display devices sold in the United States and establish a
3 program for the collection and recycling or reuse of video display devices that
4 is applicable to all video display devices discarded by households, the state
5 agency will evaluate whether these laws provide a solution that is equal to or
6 better than the program created by this act. The agency must report its findings
7 back to the general assembly.

8 § 7312. DIRECT APPROPRIATION

9 Prior to the governor making budget recommendations to the general
10 assembly in 2010 and each year thereafter, the agency must report on revenues
11 received and expenditures made in this chapter during the two preceding fiscal
12 years and request the governor to recommend a direct appropriation for the
13 purposes of this chapter.

14 § 7313. DISPOSAL BAN

15 No person shall place or dispose of any covered electronic device in any
16 solid waste disposal facility.

17 § 7314. SEVERABILITY

18 If any section of this act is declared unconstitutional or invalid by the
19 courts, the unconstitutional or invalid section or provision does not affect the
20 validity of this act as a whole or any part of this act other than the part declared
21 to be unconstitutional or invalid.

1 Sec. 3. EFFECTIVE DATE

2 This act shall take effect upon passage.