

HOUSE No. 00266

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to require producer responsibility for collection, reuse and recycling of discarded electronic products.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>John Mahoney</i>	<i>13th Worcester</i>

HOUSE No. 00266

By Mr. Straus of Mattapoisett, petition (accompanied by Bill, House, No. 00266) of William M. Straus and others for legislation to require producer responsibility for collection, reuse and recycling of discarded electronic products. Joint Committee on Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
—————

An Act to require producer responsibility for collection, reuse and recycling of discarded electronic products.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 21N the
2 following chapter:-

3 CHAPTER 21O.

4 RECYCLING OF DISCARDED ELECTRONIC PRODUCTS.

5 Section 1. As used in this chapter the following words shall, unless the context clearly requires
6 otherwise, have the following meanings:

7 “Collection”, the aggregation of covered electronic products from households, municipalities,
8 the Commonwealth and any other political subdivision, and schools, including the accumulation
9 of covered electronic products at handling facilities, transfer stations, and solid waste facilities,

10 including all the activities up to the time the covered electronic products are collected by a
11 processor.

12 “Collector”, a person, registered with the Department, accepting covered electronic products
13 from households, municipalities, the Commonwealth and any other political subdivision, and
14 schools.

15 “Collector reimbursement”, the minimum per pound rate, as established by the department, paid
16 by a processor to a collector for all covered electronic products collected.

17 “Computer”, an electronic, magnetic, optical, electrochemical, or other high speed data
18 processing device performing logical, arithmetic, or storage functions, including a laptop or a
19 combined computer central processing unit and monitor; provided, however, that an automated
20 typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other
21 similar device shall not be considered a computer.

22 “Covered computer product” means a desktop or notebook computer, netbook, or
23 computer monitor, marketed and intended for use by a person, but does not include a covered
24 television device.

25 “Covered electronic product” means a covered computer product or a covered television product
26 collected for reuse or recycling by collectors and processors eligible for collector reimbursement
27 and processor reimbursement through the producer reimbursement system. “Covered electronic
28 product,” “covered computer product”, or “covered television product” do not include any of the
29 following:

30 (i) A covered electronic product that is a part of a motor vehicle or any component part of a
31 motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including
32 replacement parts for use in a motor vehicle.

33 (ii) A covered electronic product that is functionally or physically a part of, or connected to,
34 or integrated within equipment or a system designed and intended for use in an industrial,
35 governmental, commercial, research and development, or medical setting, including but not
36 limited to diagnostic, monitoring, control or medical products (as defined under the Federal
37 Food, Drug, and Cosmetic Act), or equipment used for security, sensing, monitoring, anti-
38 terrorism, emergency services purposes or equipment designed and intended primarily for use by
39 professional users.

40 (iii) A covered electronic product that is contained within a clothes washer, clothes dryer,
41 refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher,
42 room air conditioner, dehumidifier, air purifier, or exercise equipment.

43 (iv) Telephones of any type, including mobile phones.

44 (v) A personal digital assistant (PDA).

45 (vi) Global positioning systems (GPS).

46 “Covered Television Product” means any electronic product that contains a tuner that locks on to
47 a selected carrier frequency and is capable of receiving and displaying television or video
48 programming via broadcast, cable, or satellite, including, without limitation, any direct view or
49 projection television with a viewable screen of 9 inches or larger whose display technology is
50 based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP),

51 liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode
52 (LED), or similar technology marketed and intended for use by a person primarily for personal
53 purposes. The term does not include a covered computer product.

54 “Department”, the department of environmental protection.

55 “Desktop computer” means an electronic, magnetic, optical, electrochemical, or other
56 high-speed data processing device performing logical, arithmetic, and storage functions for
57 general purpose needs which are met through interaction with a number of software programs
58 contained therein, which is not designed to exclusively perform a specific type of limited or
59 specialized application. Human interface with a desktop computer is achieved through a
60 standalone keyboard, stand-alone monitor or other display unit, and a stand-alone mouse or other
61 pointing device, and is designed for a single user. A desktop computer has a main unit that is
62 intended to be persistently located in a single location, often on a desk or on the floor.

63 “Market share”, a television producer’s national sales of televisions expressed as a
64 percentage of the total of all television producers’ national sales based on the best available
65 public data.

66 “Monitor”, a video display device without a tuner that can display pictures and sound and is used
67 with a computer.

68 “Netbook” means an electronic, magnetic, optical, electrochemical, or other high-speed
69 data processing device performing logical, arithmetic, or storage functions for general purpose
70 needs which are met through interaction with a number of software programs contained therein,
71 which is not designed to exclusively perform a specific type of limited or specialized application.
72 Human interface with a netbook is achieved through a keyboard, video display greater than 4" in

73 size, and mouse or other pointing device, all of which are contained within the construction of
74 the unit which comprises the netbook, and can be carried as one unit by an individual. Netbook
75 can use external, internal, or batteries for a power source. Netbook does not include a portable
76 handheld calculator, or a portable digital assistant or similar specialized device.

77 “Notebook computer” means an electronic, magnetic, optical, electrochemical, or other high-
78 speed data processing device performing logical, arithmetic, or storage functions for general
79 purpose needs which are met through interaction with a number of software programs contained
80 therein, which is not designed to exclusively perform a specific type of limited or specialized
81 application. Human interface with a notebook computer is achieved through a keyboard, video
82 display greater than 4" in size, and mouse or other pointing device, all of which are contained
83 within the construction of the unit which comprises the notebook computer, and can be carried as
84 one unit by an individual. Supplemental standalone interface devices typically can also be
85 attached to the notebook computer. Notebook computers can use external, internal, or batteries
86 for a power source. Notebook computer does not include a portable handheld calculator, or a
87 portable digital assistant or similar specialized device. A notebook computer is sometimes
88 referred to as a laptop computer.

89 “Orphan waste”, a covered computer product, the producer of which cannot be identified
90 or is no longer in business and has no successor in interest.

91 “Person”, a natural person, corporation, association, partnership, government body or
92 other legal entity.

93 “Printer” means desktop printers, multifunction printer copiers, and printer/fax
94 combinations taken out of service from a person that are designed to reside on a work surface,

95 and include various print technologies, including without limitation laser and LED
96 (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or
97 "all-in-one" devices that perform different tasks, including without limitation copying, scanning,
98 faxing, and printing. Printers do not include floor-standing printers, printers with optional floor
99 stand, point of sale (POS) receipt printers, household printers such as a calculator with printing
100 capabilities or label makers, or non-stand-alone printers that are embedded into products that are
101 not CEDs.

102 "Processor", a person registered with the department to receive covered electronic
103 products from collectors for the purpose of sorting, weighing and reusing or recycling or
104 shipping offsite for reuse or recycling in accordance with minimum performance requirements
105 established by the department.

106 "Processor reimbursement", the minimum per pound rate, as established by the department, paid
107 by a producer to a processor for the producer's covered electronic products and the producer's
108 share of orphan waste, as determined by the department, shall include the collector
109 reimbursement, and may be broken down into specific elements, including but not limited to,
110 collection, sorting, or recycling, or type of product, as determined by the department. The
111 processor reimbursement shall never be so low for it to be cost prohibitive for all registered
112 processors to process covered electronic products.

113 "Producer", any person who: (a) has a physical presence and legal assets in the United
114 States of America and (1) manufactures or manufactured a covered electronic product under its
115 own brand or label; (2) sells or sold under its own brand or label a covered electronic product
116 produced by other suppliers; or (3) owns a brand that it licenses or licensed to another person for

117 use on a covered electronic product; or (b) imports or imported a covered electronic product into
118 the United States that was manufactured by a person without a presence in the United States of
119 America; (c) sells at retail a covered electronic product acquired from an importer that is the
120 manufacturer as described in subsection (b) and elects to register in lieu of the importer; or (d)
121 assumes the responsibilities and obligations of a producer under this Act.

122 “Program year”, a full calendar year beginning on or after January 1, 2011.

123

124 “Recycling”, to recover materials or by-products which are: (a) reused; (b) used as an
125 ingredient or a feedstock in an industrial or manufacturing process to make a marketable product;
126 or (c) used in a particular function or application as an effective substitute for a commercial
127 product or commodity; provided, however, that recycle shall not mean to recover energy from
128 the combustion of a material.

129

130 "Retailer" includes, but is not limited to, a manufacturer of a covered electronic product
131 who sells directly to a consumer through any means, including, but not limited to, transactions
132 conducted through sales outlets, catalogs or the Internet, or any similar electronic means, but not
133 including leasing, commercial financing or wholesale transactions with a distributor or other
134 retailer.

135 “Return share”, a percentage of covered computer products collected through processors
136 as calculated by the Department, either by dividing the total weight of covered computer
137 products of that producer’s brands by the total weight of covered computer products for all

138 producers' non-orphaned brands or by using a statistically representative sample of processed
139 covered computer products.

140 "Reuse", any operation by which an electronic product or component of a covered
141 electronic product changes ownership but retains its form and function and is used for the same
142 purpose for which it was originally purchased.

143

144 "Sale" or "sell", any transfer for valuable consideration of title including, but not limited
145 to, transactions conducted through sales outlets, through the Internet or any similar electronic
146 means, or catalogs, and excluding commercial financing or leasing.

147 "Television", any telecommunication system device that can broadcast or receive moving
148 pictures and sound over a distance and includes a television tuner or a display device peripheral
149 to a computer that contains a television tuner.

150 "Video display" means an output surface having a viewable area greater than four inches
151 when measured diagonally that displays moving graphical images or a visual representation of
152 image sequences or pictures, showing a number of quickly changing images on a screen in fast
153 succession to create the illusion of motion, including, but not limited to, a device that is an
154 integral part of the display that cannot be easily removed from the display by the consumer and
155 that produces the moving image on the screen and includes technology using a cathode ray tube,
156 liquid crystal display, gas plasma, digital light processing or other image projection technology.

157 Section 2. (a) No person shall engage in business as a producer unless he is registered with the
158 department pursuant to this section.

159 (b) Every producer seeking to engage in business in the commonwealth shall file an
160 application, accompanied by a producer registration fee, with the department requesting
161 registration as a producer. Said application shall be made on a form to be furnished by the
162 department, and shall include, without limitation, the following information: (1) the name and
163 contact information of the applicant; (2) the applicant's brand names of covered electronic
164 products, including all brand names sold in the commonwealth in the past, all brand names
165 currently being sold in the commonwealth, and all brand names for which the applicant is legally
166 responsible; (3) the method or methods of sale used in the commonwealth; (4) a baseline or a set
167 of baselines that describe any efforts to design covered electronic products for reuse or recycling
168 and goals and plans for further increasing design for reuse and recycling; and (5) a description of
169 any independent collection, consolidation or processing services utilized to recover, reuse, or
170 recycle the producer's products. The department shall, within sixty days, review the application
171 for registration. If said application satisfies the requirements of this section, the department shall
172 register said applicant as a producer and shall forthwith mail to him a certificate to that effect. If
173 said application fails to satisfy the requirements of this section the producer shall, within thirty
174 days, file with the department a revised application addressing the requirements noted by the
175 department.

176 (c) The department may keep information submitted pursuant to this section confidential as
177 provided by section 10 of chapter 66 of the General Laws. The department will publish on its
178 website the following information: (1) the name and contact information of the producer
179 submitting the application and (2) the producer's brand names of covered electronic products.

180 (d) Producers shall register with the department for a specified registration period. Such
181 applications shall be submitted to the department by the date specified by the department

182 together with a renewal fee as shall be established by the department. After verification of the
183 facts stated on the application, the department shall issue a registration. Any holder of a
184 registration who fails to file a renewal application within sixty days after his registration has
185 expired shall, prior to engaging in business as a producer within the commonwealth, be required
186 to register anew and pay a late fee in addition to said renewal fee.

187 (e) The department shall use not more than twelve months as the specified registration period.

188

189 (f) Producers of covered electronic products shall provide processor reimbursements for
190 their share of covered electronic product received and processed at a processor.

191 (g) A producer who has sold or who sells covered electronic products other than covered
192 television products in the commonwealth shall bear the financial responsibility for the collection,
193 transportation, and recycling of said covered electronic products received by processors,
194 including their return share of orphan waste as determined by the department.

195 (h) A producer of televisions shall have the financial responsibility for the collection,
196 transportation and recycling of covered television products received by processors in the
197 commonwealth, based on the television manufacturer's market share as determined by the
198 department.

199 (i) A producer may also collect its covered electronic products for reuse or recycling by
200 establishing a collection program, either individually or in cooperation with other producers, to
201 collect these discarded products as established in this chapter. A producer establishing an
202 independent collection program for reuse or recycling either individually or in cooperation with

203 other producers shall recover 1 or more covered electronic products. A producer establishing an
204 independent collection program for reuse or recycling either individually or in cooperation with
205 other products shall at a minimum establish a physical presence in every municipality with a
206 population of 40,000 people or higher which does not have a collection location under this
207 chapter.

208

209 (j) A producer establishing an independent recycling program either individually or in
210 cooperation with other producers must register and comply as a collector or as a processor
211 pursuant to this chapter; however, an additional registration fee will not be required.

212 (k) A producer establishing an independent recycling program either individually or in
213 cooperation with other producers shall provide information specified by the department
214 describing the locations for the collection or return of the producer's product, including
215 information on opportunities and locations for donation of the product for reuse via, without
216 limitation: (1) a toll-free telephone number; (2) a website; (3) information included in or on the
217 packaging; or (4) written information provided at the point of sale.

218 (l) A producer establishing an independent collection program shall submit an annual
219 report to the department that includes at a minimum the following information for the previous
220 program year as well as any additional information required by the department: (1)
221 distinguishing the total weight of each type of covered electronic product collected for recycling;
222 (2) detailing the total number of items by each type of covered electronic product collected for
223 reuse or refurbishment; (3) a description of the plan's education, outreach, or other marketing
224 efforts to promote collection of covered electronic products; (4) a description of management

225 practices to transport and recycle discarded covered electronic products; and (5) any additional
226 information deemed necessary by the department.

227 Section 3. (a) No person shall be eligible for collector reimbursement unless he is registered with
228 the department pursuant to this section.

229 (b) Every collector seeking to be eligible for collector reimbursement shall file an
230 application, accompanied by the collector registration fee, with the department requesting
231 registration as a collector. Said application shall be made on a form to be furnished by the
232 department, and shall include, without limitation, the following information: (1) the name; (2)
233 the address; (3) the telephone number; and (4) the location of the business. The department shall,
234 within sixty days, review the application for registration. If said application satisfies the
235 requirements of this section, the department shall register said applicant as a collector and shall
236 forthwith provide him a certificate to that effect. If said application fails to satisfy the
237 requirements of this section the collector shall, within thirty days, file with the department a
238 revised application addressing the requirements noted by the department.

239 (c) If a municipality applies to be a collector under this statute, the statute will apply to
240 them except no registration or renewal fee will be required.

241 (d) A collector shall: (1) contract with a registered processor(s) to receive the covered
242 electronic products collected by the collector; (2) make information available to the public that
243 describes where and how to return and recycle covered electronic products; (3) accept all
244 covered electronic products and ensure that said products are transported by or delivered to a
245 registered processor; and (4) demonstrate compliance with the department rules and regulations
246 and the United States Environmental Protection Agency's Responsible Recycling Guidelines for

247 Materials Management as issued and available on the United States Environmental Protection
248 Agency's Internet website in addition to any other requirements mandated by federal or state
249 law. A collector may limit the number of covered electronic products delivered at a given time
250 by any customer to no more than 5.

251

252 (e) A collector shall not: (1) charge a fee to persons for the collection or recycling of
253 covered electronic products; or (2) knowingly accept covered electronic products imported into
254 the commonwealth for the purpose of recycling or discard.

255 (f) Only a person registered as a collector with the department may receive collector
256 reimbursements. Fully functioning covered electronic products that are received by a registered
257 collector in working order may be sold or donated as whole products by the collector for reuse.
258 Covered electronic products that require repair to make them a fully functioning unit may only
259 be repaired on-site at the collector's place of business by the registered collector for reuse
260 according to its original purpose.

261 (g) Registered collectors may use whole parts amassed from collected covered electronic
262 products or new parts for making repairs as long as there is a part-for-part exchange with
263 nonfunctioning covered electronic products.

264 (h) Registered collectors may not include covered electronic products that are dispersed
265 for reuse in the weight totals for collector reimbursements.

266 (i) Registered collectors must report annually to the department, on a form provided by
267 the department, and maintain a record of all covered electronic products collected, covered

268 electronic products sold through reuse or resale, covered electronic products delivered to
269 processors, and any other information the Department determines necessary a period not less
270 than three years.

271 (j) Registered collectors must display a notice at the point of collection that computers
272 received by the collector may be repaired and sold or donated as a fully functioning computer
273 rather than submitted to a processor for recycling.

274 (k) The department may conduct site visits of all registered collectors. The department
275 may, for cause, review records and conduct investigations regarding a violation of this chapter.

276 (l) Collectors shall register with the department at least every thirty-six months. Such
277 applications shall be submitted to the department by the date specified by the department
278 together with a renewal fee as shall be established by the department. After verification of the
279 facts stated on the application, the department shall issue a registration. Any holder of a
280 registration who fails to file a renewal application within sixty days after his registration has
281 expired shall, prior to engaging in business as a collector within the commonwealth, be required
282 to register anew and pay a late fee in addition to said renewal fee.

283 Section 4. (a) No person shall be eligible for processor reimbursement unless he is registered
284 with the department pursuant to this section.

285 (b) Every processor seeking to be eligible for processor reimbursement in the
286 commonwealth shall file an application, accompanied by appropriate processor registration fee,
287 with the department requesting registration as a processor. Said application shall be made on a
288 form to be furnished by the department, and shall include, without limitation, the following
289 information: (1) the name; (2) the address; (3) the telephone number; and (4) the location of the

290 business of the processor's business. The department shall, within sixty days, review the
291 application for registration. If said application satisfies the requirements of this section, the
292 department shall register said applicant as a processor and shall forthwith provide him a
293 certificate to that effect. If said application fails to satisfy the requirements of this section the
294 processor shall, within thirty days, file with the department a revised application addressing the
295 requirements noted by the department.

296

297 (c) A processor shall: (1) be responsible for sorting all covered electronic products
298 received from a participating collector with whom the processor has a contract; (2) weigh the
299 total amount of covered electronic products received from a participating collector and reimburse
300 said collector; provided, however, that said collector reimbursement shall be due within thirty
301 days of pick-up or receipt; (3) sort, by producer type of covered electronic product, and weigh all
302 covered electronic products other than televisions received from collectors; (4) weigh all
303 televisions received from collectors; (5) either repair, refurbish, remanufacture, or recycle on-site
304 or ship covered electronic products offsite for reuse or recycling in accordance with the
305 minimum performance requirements established by the department; (6) demonstrate compliance
306 with the department rules and regulations in addition to any other requirements mandated by
307 federal or state law; (7) submit an invoice for processor reimbursement to each producer whose
308 covered electronic products, or share thereof, the processor has handled; and (8) annually submit
309 a report to the department which shall include without limitation: (i) the total aggregate weight of
310 covered electronic products processed pursuant to this chapter in the previous program year; (ii)
311 the weight, differentiated by producer, of covered electronic products processed pursuant to this
312 chapter in the previous program year; (iii) the total amount of orphan waste processed pursuant

313 to this chapter in the previous program year; and (iv) any other information to help track,
314 monitor and evaluate the management of covered electronic products, as determined by the
315 department.

316

317 (d) A processor shall not charge a fee for accepting, sorting, weighing, processing for
318 reuse or recycling a covered electronic product for which the processor receives compensation
319 under the provisions of this section.

320 (e) Processors shall register with the department at least every thirty-six months. Such
321 application shall be submitted to the department by the date specified by the department together
322 with a renewal fee as shall be established by the department. After verification of the facts stated
323 on the application, the department shall issue a registration. Any holder of a registration who
324 fails to file a renewal application within sixty days after his registration has expired shall, prior to
325 engaging in business as a processor within the commonwealth, be required to register anew and
326 pay a late fee in addition to said renewal fee.

327 Section 5. The fee for a collector registration, a processor registration and a producer
328 registration, or for any annual renewal thereof, shall be determined every three years by the
329 department, but in no case shall any registration or renewal fee exceed \$5000.

330 Section 6. (a) The department shall annually: (1) determine the return share for each program
331 year for each producer of covered electronic products other than covered television products by
332 dividing the weight of those covered electronic products identified for each producer by the total
333 weight of those covered electronic products identified for all producers; provided further, that
334 said calculation shall be based on the reports generated by processors of those covered electronic

335 products; provided further, that for the first program year, the return share of those covered
336 electronic products identified for each producer shall be based on the best available public return
337 share data from the United States, including data from other states, for those covered electronic
338 products from persons; provided further, that for the second and subsequent program years, the
339 return share of those covered electronic products identified for each producer shall be based on
340 the previous year's reported data as described herein; and provided further, that the department
341 shall use the return share for each producer to allocate financial responsibility for orphan waste;
342 (2) determine, based on each producer's return share, each producer's share of responsibility for
343 the orphan waste collected in the commonwealth; provided, however, that each producer's return
344 share of orphan waste shall be equivalent to its percentage of return share for non-orphan
345 covered electronic products, multiplied by the total amount of orphan waste collected in the
346 program year; and provided further, that the department, in determining the producer's orphan
347 waste share, may take into account covered electronic products, including orphan waste,
348 voluntarily collected by the producer; (3) determine the market share allocation for each
349 television producer by determining the total weight of televisions recycled in the previous year,
350 multiplied by the market share for that producer; provided, however, that in the first program
351 year, the market share identified for each television producer shall be based on the best available
352 data regarding the total number of televisions sold in the commonwealth for the previous
353 calendar year; (4) maintain a list of producers registered pursuant to this chapter; and (5) conduct
354 periodic audits of processors and collectors at a frequency determined by the department, to
355 assure accuracy of reporting and billing.

356 (b) The department shall adopt and may from time to time amend rules and regulations to carry
357 out the provisions this chapter. Such regulations shall include, but not be limited to, provisions

358 that establish (1) a process for registering covered electronic product collectors, processors and
359 producers, (2) a list of collector and processor reimbursement rates and establishment of not less
360 than monthly payment terms, (3) standards for operation, reporting and auditing of producers,
361 collectors and processors, (4) a list of covered and exempted electronic products, (5) collection
362 program standards to ensure adequate access to recycling of covered electronic products, (6)
363 procedures for the review of applications and for provision of adjudicatory hearings pursuant to
364 the provisions of chapter thirty A for any person aggrieved by a determination by the department
365 with respect to such applications, and (7) any other requirements necessary to carry out the
366 provisions of this chapter.

367

368

369 (c) Beginning one year after this act takes effect and annually thereafter, the department
370 shall submit a report to the House Committee on Ways and Means, the Senate Committee on
371 Ways and Means, and the Joint Committee on Environment, Natural Resources and Agriculture
372 that includes information regarding the previous program year. The information shall include,
373 but is not limited to, (1) the total administrative cost to the state government, (2) the total
374 administrative cost to local governments, (3) a description of the incentive for manufacturer
375 collection, (4) a description of the education, outreach, or other marketing efforts conducted by
376 the state or local governments to promote collection of covered electronic products, and (5) the
377 effectiveness of the independent collection program requirements, independent collection
378 program compliance, and collection rates of independent programs.

379 Section 7. (a) No person shall sell covered electronic products from producers not registered
380 pursuant to this chapter. A retailer shall not be in violation of this subsection if, at time of
381 purchase from producer, the producer was not in violation of this Chapter. This subsection shall
382 not apply to used electronic products that are reused.

383 (b) No person shall offer for sale a covered electronic product unless a visible, permanent
384 label clearly identifying the producer of that product is affixed to said covered electronic
385 product.

386 (c) All retailers shall provide information describing where and how to recycle a covered
387 electronic product provided by the producer and offered for sale by the retailer pursuant to this
388 act.

389 (d) No person shall knowingly dispose of any covered electronic product except as
390 provided in this chapter.

391 (e) No person shall import a covered electronic product into the commonwealth with the
392 intent of recycling or discarding said product; provided further, that any covered electronic
393 product so imported shall not be eligible for reimbursement under the provisions of this chapter.

394

395 Section 8. (a) The department shall be charged with the enforcement of this chapter. Whenever
396 it appears that there is a violation of any provision of this chapter, or of any approval or
397 regulation issued or adopted hereunder, the department may issue an order requiring the
398 production of records or information, or imposing such restraints on or requiring such actions, as
399 it deems necessary to abate or prevent such violation. The department also may issue such orders

400 and assess such penalties as it deems necessary to secure compliance with any approval or
401 regulation issued under this chapter. Issuance of an order or penalties under this section shall not
402 preclude, and shall not be deemed an election to forego, any action to recover damages, or, to
403 seek civil penalties, criminal fines and penalties, or injunctive relief.

404 (b) Any person who violates any provision of this chapter, or any regulation, order or
405 approval issued or adopted hereunder: (a) shall be punished by a fine of not more than twenty-
406 five thousand dollars, or by imprisonment for not more than two years in a house of correction,
407 or both, for each such violation; or (b) shall be subject to a civil penalty not to exceed twenty-
408 five thousand dollars for each such violation. Each day each such violation occurs or continues
409 shall be a separate offense. The superior court shall have jurisdiction to enjoin violations of, or
410 grant such additional relief as it deems necessary or appropriate to secure compliance with, the
411 provisions of this chapter, or any order, approval or regulation issued or adopted hereunder upon
412 the petition of the attorney general or the commissioner.

413 (c) Any person aggrieved by a determination by the department to issue, deny, modify,
414 revoke or suspend any approval, or to issue an order or penalty assessment, under the provisions
415 of this chapter, may request an adjudicatory hearing before the department under the provisions
416 of chapter thirty A. Any such determination shall contain a notice of this right to request a
417 hearing and may specify a time limit, not to exceed twenty-one days, within which said person
418 shall request said hearing. If no such request is timely made, the determination shall be deemed
419 assented to. If a timely request is received, the department shall within a reasonable time act
420 upon a request in accordance with the provisions of said chapter thirty A. A person aggrieved by
421 a final decision in an adjudicatory hearing held under the provisions of this section may obtain
422 judicial review thereof pursuant to the provisions of chapter thirty A.

423 Section 9. The department may participate in the establishment of a regional multistate
424 organization or compact to assist in carrying out the requirements of this chapter.

425 Section 10. (a) There shall be in the Department an advisory commission for electronic waste.
426 The commission shall consist of one individual representing covered television product
427 manufacturers, one individual representing processors of covered electronic products, one
428 individual representing a trade association of covered computer product manufacturers or
429 covered television product manufacturers, the Senate chair of the Joint Committee on
430 Environment, Natural Resources, and Agriculture or his designee, the House chair of the Joint
431 Committee on Environment, Natural Resources, and Agriculture or his designee, one individual
432 representing covered computer manufacturers, one individual representing retailers of covered
433 electronic products, one individual representing a statewide conservation organization, one
434 individual representing a municipality or municipal organization, and the Commissioner of the
435 Department or his designee.

436 (b) Appointments to the advisory commission shall be made not later than thirty days after the
437 effective date of this statute. If a vacancy occurs on the commission, the vacancy shall be filled
438 within thirty days.

439 (c) Said advisory commission shall have the following duties: (1) It shall advise the Department
440 on policy and program development under this section, specifically regarding performance
441 standards; (2) It shall review the registration and renewal fees for producers, collectors and
442 processors, and shall make recommendations to the commissioner relative thereto; and (3) It
443 shall make recommendations to the Joint Committee on Environment, Natural Resources, and

444 Agriculture on recommendations of amending the definition of covered electronic product under
445 this statute to cover other electronic products.

446 (d) The advisory commission shall meet at least biannually and shall convene special
447 meetings at the call of the Commissioner. These meetings are not subject to Chapter 39 of the
448 General Laws; however, a written record of all meetings of the committee shall be maintained by
449 the Department. Meetings may be held in person, by telephone conference, by video conference,
450 or by web conference. Members of the commission shall serve without compensation. The
451 members of the commission representing the Department or the General Court shall serve
452 without additional compensation.

453 SECTION 2. The General Laws are hereby amended by striking chapter 21O and replacing with
454 the following:

455 CHAPTER 21O.

456 RECYCLING OF DISCARDED ELECTRONIC PRODUCTS.

457 Section 1. As used in this chapter the following words shall, unless the context clearly requires
458 otherwise, have the following meanings:

459 "Additionally covered electronic product" means any of the following electronic products taken
460 out of service from a person in the commonwealth regardless of purchase location: printers,
461 stand-alone facsimile machine, scanner, or a machine functioning as two or more of these
462 products; video game console; or video cassette recorder/player, digital video disk player, or
463 similar video device. To the extent allowed under federal and state laws and regulations, an
464 additionally covered eligible electronic product that is being collected, recycled, or processed for

465 reuse is not considered to be hazardous waste, household waste, solid waste, or special waste.

466 The term does not include a covered television product or a covered computer product.

467 “Collection”, the aggregation of covered electronic products from households, municipalities, the
468 Commonwealth and any other political subdivision, and schools, including the accumulation of
469 covered electronic products at handling facilities, transfer stations, and solid waste facilities,
470 including all the activities up to the time the covered electronic products are collected by a
471 processor.

472 “Collector”, a person accepting covered electronic products from households, municipalities, the
473 Commonwealth and any other political subdivision, and schools.

474 “Collector reimbursement”, the minimum per pound rate, as established by the department, paid
475 by a processor to a collector for all covered electronic products collected.

476 “Computer”, an electronic, magnetic, optical, electrochemical, or other high speed data
477 processing device performing logical, arithmetic, or storage functions, including a laptop or a
478 combined computer central processing unit and monitor; provided, however, that an automated
479 typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other
480 similar device shall not be considered a computer.

481 “Covered computer product” means a desktop or notebook computer, netbook, or
482 computer monitor, marketed and intended for use by a person, but does not include a covered
483 television device or additionally covered electronic product.

484 “Covered electronic product” means a covered computer product, a covered television product,
485 or additionally covered electronic product collected for reuse or recycling by collectors and

486 processors eligible for collector reimbursement and processor reimbursement through the
487 producer reimbursement system. “Covered electronic product,” “covered computer product”,
488 “covered television product,” or “additionally covered electronic product” do not include any of
489 the following:

490 (i) A covered electronic product that is a part of a motor vehicle or any component part of a
491 motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including
492 replacement parts for use in a motor vehicle.

493 (ii) A covered electronic product that is functionally or physically a part of, or connected to,
494 or integrated within equipment or a system designed and intended for use in an industrial,
495 governmental, commercial, research and development, or medical setting, including but not
496 limited to diagnostic, monitoring, control or medical products (as defined under the Federal
497 Food, Drug, and Cosmetic Act), or equipment used for security, sensing, monitoring, anti-
498 terrorism, emergency services purposes or equipment designed and intended primarily for use by
499 professional users.

500 (iii) A covered electronic product that is contained within a clothes washer, clothes dryer,
501 refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher,
502 room air conditioner, dehumidifier, air purifier, or exercise equipment.

503 (iv) Telephones of any type, including mobile phones.

504 (v) Personal digital assistants (PDA).

505 (vi) Global positioning systems (GPS).

506 “Covered Television Product” means any electronic product that contains a tuner that locks on to
507 a selected carrier frequency and is capable of receiving and displaying television or video
508 programming via broadcast, cable, or satellite, including, without limitation, any direct view or
509 projection television with a viewable screen of 9 inches or larger whose display technology is
510 based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP),
511 liquid crystal on silicon (LCOS), silicon crystal reflective display (SXR), light emitting diode
512 (LED), or similar technology marketed and intended for use by a person primarily for personal
513 purposes. The term does not include a covered computer product or additionally covered
514 electronic product.

515 “Department”, the department of environmental protection.

516 “Desktop computer” means an electronic, magnetic, optical, electrochemical, or other
517 high-speed data processing device performing logical, arithmetic, and storage functions for
518 general purpose needs which are met through interaction with a number of software programs
519 contained therein, which is not designed to exclusively perform a specific type of limited or
520 specialized application. Human interface with a desktop computer is achieved through a
521 standalone keyboard, stand-alone monitor or other display unit, and a stand-alone mouse or other
522 pointing device, and is designed for a single user. A desktop computer has a main unit that is
523 intended to be persistently located in a single location, often on a desk or on the floor.

524 “Market share”, a producer’s national sales of covered electronic products that are not
525 covered computer products expressed as a percentage of the total of all producers’ national sales
526 based on the best available public data.

527 “Monitor”, a video display device without a tuner that can display pictures and sound and is used
528 with a computer.

529 “Netbook” means an electronic, magnetic, optical, electrochemical, or other high-speed
530 data processing device performing logical, arithmetic, or storage functions for general purpose
531 needs which are met through interaction with a number of software programs contained therein,
532 which is not designed to exclusively perform a specific type of limited or specialized application.
533 Human interface with a netbook is achieved through a keyboard, video display greater than 4" in
534 size, and mouse or other pointing device, all of which are contained within the construction of
535 the unit which comprises the netbook, and can be carried as one unit by an individual. Netbook
536 can use external, internal, or batteries for a power source. Netbook does not include a portable
537 handheld calculator, or a portable digital assistant or similar specialized device.

538 “Notebook computer” means an electronic, magnetic, optical, electrochemical, or other high-
539 speed data processing device performing logical, arithmetic, or storage functions for general
540 purpose needs which are met through interaction with a number of software programs contained
541 therein, which is not designed to exclusively perform a specific type of limited or specialized
542 application. Human interface with a notebook computer is achieved through a keyboard, video
543 display greater than 4" in size, and mouse or other pointing device, all of which are contained
544 within the construction of the unit which comprises the notebook computer, and can be carried as
545 one unit by an individual. Supplemental standalone interface devices typically can also be
546 attached to the notebook computer. Notebook computers can use external, internal, or batteries
547 for a power source. Notebook computer does not include a portable handheld calculator, or a
548 portable digital assistant or similar specialized device. A notebook computer is sometimes
549 referred to as a laptop computer.

550 “Orphan waste”, a covered computer product, the producer of which cannot be identified
551 or is no longer in business and has no successor in interest.

552 “Person”, a natural person, corporation, association, partnership, government body or
553 other legal entity.

554 “Printer” means desktop printers, multifunction printer copiers, and printer/fax
555 combinations taken out of service from a person that are designed to reside on a work surface,
556 and include various print technologies, including without limitation laser and LED
557 (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or
558 "all-in-one" devices that perform different tasks, including without limitation copying, scanning,
559 faxing, and printing. Printers do not include floor-standing printers, printers with optional floor
560 stand, point of sale (POS) receipt printers, household printers such as a calculator with printing
561 capabilities or label makers, or non-stand-alone printers that are embedded into products that are
562 not CEDs.

563 “Processor”, a person registered with the department to receive covered electronic
564 products from collectors for the purpose of sorting, weighing and reusing or recycling or
565 shipping offsite for reuse or recycling in accordance with minimum performance requirements
566 established by the department.

567 “Processor reimbursement”, the minimum per pound rate, as established by the department, paid
568 by a producer to a processor for the producer’s covered electronic products and the producer’s
569 share of orphan waste, as determined by the department. Said minimum reimbursement shall
570 include the collector reimbursement and may be broken down into specific elements, including
571 but not limited to, collection, sorting, or recycling, or type of product, as determined by the

572 department. The processor reimbursement shall never be so low for it to be cost prohibitive for
573 all registered processors to process covered electronic products.

574 "Producer", any person who: (a) has a physical presence and legal assets in the United
575 States of America and (1) manufactures or manufactured a covered electronic product under its
576 own brand or label; (2) sells or sold under its own brand or label a covered electronic product
577 produced by other suppliers; or (3) owns a brand that it licenses or licensed to another person for
578 use on a covered electronic product; or (b) imports or imported a covered electronic product into
579 the United States that was manufactured by a person without a presence in the United States of
580 America; (c) sells at retail a covered electronic product acquired from an importer that is the
581 manufacturer as described in subsection (b) and elects to register in lieu of the importer; or (d)
582 assumes the responsibilities and obligations of a producer under this Act.

583 "Program year", a full calendar year beginning on or after January 1, 2011.

584

585 "Recycling", to recover materials or by-products which are: (a) reused; (b) used as an
586 ingredient or a feedstock in an industrial or manufacturing process to make a marketable product;
587 or (c) used in a particular function or application as an effective substitute for a commercial
588 product or commodity; provided, however, that recycle shall not mean to recover energy from
589 the combustion of a material.

590

591 "Retailer" includes, but is not limited to, a manufacturer of a covered electronic product
592 who sells directly to a consumer through any means, including, but not limited to, transactions

593 conducted through sales outlets, catalogs or the Internet, or any similar electronic means, but not
594 including leasing, commercial financing or wholesale transactions with a distributor or other
595 retailer.

596 “Return share”, a percentage of covered computer products collected through processors
597 as calculated by the Department, either by dividing the total weight of covered computer
598 products of that producer’s brands by the total weight of covered computer products for all
599 producers’ non-orphaned brands or by using a statistically representative sample of processed
600 covered computer products and additionally covered electronic products.

601 “Reuse”, any operation by which an electronic product or component of a covered
602 electronic product changes ownership but retains its form and function and is used for the same
603 purpose for which it was originally purchased.

604

605 “Sale” or “sell”, any transfer for valuable consideration of title including, but not limited
606 to, transactions conducted through sales outlets, through the Internet or any similar electronic
607 means, or catalogs, and excluding commercial financing or leasing.

608

609 “Television”, any telecommunication system device that can broadcast or receive moving
610 pictures and sound over a distance and includes a television tuner or a display device peripheral
611 to a computer that contains a television tuner.

612 "Video display" means an output surface having a viewable area greater than four inches
613 when measured diagonally that displays moving graphical images or a visual representation of

614 image sequences or pictures, showing a number of quickly changing images on a screen in fast
615 succession to create the illusion of motion, including, but not limited to, a device that is an
616 integral part of the display that cannot be easily removed from the display by the consumer and
617 that produces the moving image on the screen and includes technology using a cathode ray tube,
618 liquid crystal display, gas plasma, digital light processing or other image projection technology.

619 Section 2. (a) No person shall engage in business as a producer unless he is registered with the
620 department pursuant to this section.

621 (b) Every producer seeking to engage in business in the commonwealth shall file an
622 application, accompanied by a producer registration fee, with the department requesting
623 registration as a producer. Said application shall be made on a form to be furnished by the
624 department, and shall include, without limitation, the following information: (1) the name and
625 contact information of the applicant; (2) the applicant's brand names of covered electronic
626 products, including all brand names sold in the commonwealth in the past, all brand names
627 currently being sold in the commonwealth, and all brand names for which the applicant is legally
628 responsible; (3) the method or methods of sale used in the commonwealth; (4) a baseline or a set
629 of baselines that describe any efforts to design covered electronic products for reuse or recycling
630 and goals and plans for further increasing design for reuse and recycling; and (5) a description of
631 any independent collection, consolidation or processing services utilized to recover, reuse, or
632 recycle the producer's products. The department shall, within sixty days, review the application
633 for registration. If said application satisfies the requirements of this section, the department shall
634 register said applicant as a producer and shall forthwith mail to him a certificate to that effect. If
635 said application fails to satisfy the requirements of this section the producer shall, within thirty

636 days, file with the department a revised application addressing the requirements noted by the
637 department.

638 (c) The department may keep information submitted pursuant to this section confidential as
639 provided by section 10 of chapter 66 of the General Laws. The department will publish on its
640 website the following information: (1) the name and contact information of the producer
641 submitting the application and (2) the producer's brand names of covered electronic products.

642 (d) Registered producers shall register with the department for a specified registration
643 period. Such applications shall be submitted to the department by the date specified by the
644 department together with a renewal fee as shall be established by the department. After
645 verification of the facts stated on the application, the department shall issue a registration. Any
646 holder of a registration who fails to file a renewal application within sixty days after his
647 registration has expired shall, prior to engaging in business as a producer within the
648 commonwealth, be required to register anew and pay a late fee in addition to said renewal fee.

649 (e) The department shall use not more than thirty-six months as a specified registration period.
650

651 (f) Producers of covered electronic products shall reimburse processors for their share of
652 covered electronic product received and processed at the processor.

653 (g) A producer who has sold or who sells covered electronic products other than covered
654 television products in the commonwealth shall bear the financial responsibility for the collection,
655 transportation, and reuse or recycling of said covered electronic products received by processors,
656 including their return share of orphan waste as determined by the department.

657 (h) A producer of televisions shall have the financial responsibility for the collection,
658 transportation and reuse or recycling of televisions discarded in the commonwealth, based on the
659 television manufacturer's market share as determined by the department.

660 (i) A producer may also collect its covered electronic products for reuse or recycling by
661 establishing a collection program, either individually or in cooperation with other producers, to
662 collect these discarded products as established in this chapter. A producer establishing an
663 independent collection program for reuse or recycling either individually or in cooperation with
664 other producers shall recover 1 or more covered electronic products. A producer establishing an
665 independent collection program for reuse or recycling either individually or in cooperation with
666 other products shall at a minimum establish a physical presence in every municipality with a
667 population of 40,000 people or higher which does not register as a collector under this chapter.

668 (j) A producer establishing an independent recycling program either individually or in
669 cooperation with other producers must register and comply as a collector or as a processor
670 pursuant to this chapter; however, an additional registration fee will not be required.

671 (k) A producer establishing an independent recycling program either individually or in
672 cooperation with other producers shall provide information specified by the department
673 describing the locations for the collection or return of the producer's product, including
674 information on opportunities and locations for donation of the product for reuse via, without
675 limitation: (1) a toll-free telephone number; (2) a website; (3) information included in or on the
676 packaging; or (4) written information provided at the point of sale.

677 (l) A producer establishing an independent collection program shall submit an annual
678 report to the department that includes at a minimum the following information for the previous

679 program year as well as any additional information required by the department: (1)
680 distinguishing the total weight of each type of covered electronic product collected for recycling;
681 (2) detailing the total number of items by each type of covered electronic product collected for
682 reuse or refurbishment; (3) a description of the plan's education, outreach, or other marketing
683 efforts to promote collection of covered electronic products; (4) a description of management
684 practices to transport and recycle discarded covered electronic products; and (5) any additional
685 information deemed necessary by the department.

686 (m) A producer establishing an independent collection program for reuse or recycling
687 either individually or in cooperation with other producers shall weigh the covered electronic
688 products collected and shall annually submit a statement certifying to the department the total
689 weight of covered electronic products received and the weight of orphan waste received in the
690 preceding program year.

691 Section 3. (a) No person shall be eligible for collector reimbursement unless he is registered
692 with the department pursuant to this section.

693 (b) Every collector seeking to be eligible for collector reimbursement shall file an
694 application, accompanied by the collector registration fee, with the department requesting
695 registration as a collector. Said application shall be made on a form to be furnished by the
696 department, and shall include, without limitation, the following information: (1) the name; (2)
697 the address; (3) the telephone number; and (4) the location of the business. The department shall,
698 within sixty days, review the application for registration. If said application satisfies the
699 requirements of this section, the department shall register said applicant as a collector and shall
700 forthwith provide him a certificate to that effect. If said application fails to satisfy the

701 requirements of this section the collector shall, within thirty days, file with the department a
702 revised application addressing the requirements noted by the department.

703 (c) If a municipality applies to be a collector under this statute, the statute will apply to
704 them except no registration or renewal fee will be required.

705 (d) A collector shall: (1) contract with a registered processor(s) to receive the covered
706 electronic products collected by the collector; (2) make information available to the public that
707 describes where and how to return and recycle covered electronic products; (3) accept all
708 covered electronic products and ensure that said products are transported by or delivered to a
709 registered processor; and (4) demonstrate compliance with the department rules and regulations
710 and the United States Environmental Protection Agency's Responsible Recycling Guidelines for
711 Materials Management as issued and available on the United States Environmental Protection
712 Agency's Internet website in addition to any other requirements mandated by federal or state
713 law. A collector may limit the number of covered electronic products delivered at a given time
714 by any customer to no more than 5.

715

716 (e) A collector shall not: (1) charge a fee to persons for the collection or recycling of
717 covered electronic products; or (2) knowingly accept covered electronic products imported into
718 the commonwealth for the purpose of recycling or discard.

719 (f) Only a person registered as a collector with the department may receive collector
720 reimbursements. Fully functioning CEPs that are received by a registered collector in working
721 order may be sold or donated as whole products by the collector for reuse. CEPs that require

722 repair to make them a fully functioning unit may only be repaired on-site at the collector's place
723 of business by the registered collector for reuse according to its original purpose.

724 (g) Registered collectors may use whole parts amassed from collected CEPs or new parts
725 for making repairs as long as there is a part-for-part exchange with nonfunctioning CEPs.

726 (h) Registered collectors may not include CEPs that are dispersed for reuse in the weight
727 totals for collector reimbursements.

728 (i) Registered collectors must report annually to the department, on a form provided by
729 the department, and maintain a record of all covered electronic products collected, covered
730 electronic products sold through reuse or resale, covered electronic products delivered to
731 processors, and any other information the Department determines necessary a period not less
732 than three years.

733 (j) Registered collectors, if applicable, must display a notice at the point of collection that
734 computers received by the collector may be repaired and sold or donated as a fully functioning
735 computer rather than submitted to a processor for recycling.

736 (k) The department may conduct site visits of all registered collectors. The department
737 may, for cause, review records and conduct investigations regarding a violation of this chapter.

738 (l) Collectors shall register with the department at least every thirty-six months. Such
739 applications shall be submitted to the department by the date specified by the department
740 together with a renewal fee as shall be established by the department. After verification of the
741 facts stated on the application, the department shall issue a registration. Any holder of a
742 registration who fails to file a renewal application within sixty days after his registration has

743 expired shall, prior to engaging in business as a collector within the commonwealth, be required
744 to register anew and pay a late fee in addition to said renewal fee.

745 Section 4. (a) No person shall be eligible for processor reimbursement unless he is registered
746 with the department pursuant to this section.

747 (b) Every processor seeking to be eligible for processor reimbursement in the
748 commonwealth shall file an application, accompanied by appropriate processor registration fee,
749 with the department requesting registration as a processor. Said application shall be made on a
750 form to be furnished by the department, and shall include, without limitation, the following
751 information: (1) the name; (2) the address; (3) the telephone number; and (4) the location of the
752 business of the processor's business. The department shall, within sixty days, review the
753 application for registration. If said application satisfies the requirements of this section, the
754 department shall register said applicant as a processor and shall forthwith provide him a
755 certificate to that effect. If said application fails to satisfy the requirements of this section the
756 processor shall, within thirty days, file with the department a revised application addressing the
757 requirements noted by the department.

758

759 (c) A processor shall: (1) be responsible for sorting all covered electronic products
760 received from a participating collector with whom the processor has a contract; (2) weigh the
761 total amount of covered electronic products received from a participating collector and reimburse
762 said collector; provided, however, that said collector reimbursement shall be due within thirty
763 days of pick-up or receipt; (3) sort, by producer type of covered electronic product, and weigh all
764 covered electronic products other than televisions received from collectors; (4) weigh all

765 televisions received from collectors; (5) either repair, refurbish, remanufacture, or recycle on-site
766 or ship covered electronic products offsite for reuse or recycling in accordance with the
767 minimum performance requirements established by the department; (6) demonstrate compliance
768 with the department rules and regulations in addition to any other requirements mandated by
769 federal or state law; (7) submit an invoice for processor reimbursement to each producer whose
770 covered electronic products, or share thereof, the processor has handled; and (8) annually submit
771 a report to the department which shall include without limitation: (i) the total aggregate weight of
772 covered electronic products processed pursuant to this chapter in the previous program year; (ii)
773 the weight, differentiated by producer, of covered electronic products processed pursuant to this
774 chapter in the previous program year; (iii) the total amount of orphan waste processed pursuant
775 to this chapter in the previous program year; and (iv) any other information to help track,
776 monitor and evaluate the management of covered electronic products, as determined by the
777 department.

778

779 (d) A processor shall not charge a fee for accepting, sorting, weighing, processing for
780 reuse or recycling a covered electronic product for which the processor receives compensation
781 under the provisions of this section.

782 (e) Processors shall register with the department at least every thirty-six months. Such
783 application shall be submitted to the department by the date specified by the department together
784 with a renewal fee as shall be established by the department. After verification of the facts stated
785 on the application, the department shall issue a registration. Any holder of a registration who
786 fails to file a renewal application within sixty days after his registration has expired shall, prior to

787 engaging in business as a processor within the commonwealth, be required to register anew and
788 pay a late fee in addition to said renewal fee.

789 Section 5. The fee for a collector registration, a processor registration and a producer
790 registration, or for any annual renewal thereof, shall be determined every three years by the
791 department, but in no case shall any registration or renewal fee exceed \$10,000.

792 Section 6. (a) The department shall annually: (1) determine the return share for each program
793 year for each producer of covered electronic products other than covered television products by
794 dividing the weight of those covered electronic products identified for each producer by the total
795 weight of those covered electronic products identified for all producers; provided further, that
796 said calculation shall be based on the reports generated by processors of those covered electronic
797 products; provided further, that for the first program year, the return share of those covered
798 electronic products identified for each producer shall be based on the best available public return
799 share data from the United States, including data from other states, for those covered electronic
800 products from persons; provided further, that for the second and subsequent program years, the
801 return share of those covered electronic products identified for each producer shall be based on
802 the previous year's reported data as described herein; and provided further, that the department
803 shall use the return share for each producer to allocate financial responsibility for orphan waste;
804 (2) determine, based on each producer's return share, each producer's share of responsibility for
805 the orphan waste collected in the commonwealth; provided, however, that each producer's return
806 share of orphan waste shall be equivalent to its percentage of return share for non-orphan
807 covered electronic products, multiplied by the total amount of orphan waste collected in the
808 program year; and provided further, that the department, in determining the producer's orphan
809 waste share, may take into account electronic products, including orphan waste, voluntarily

810 collected by the producer; (3) determine the market share allocation for each television producer
811 by determining the total weight of televisions recycled in the previous year, multiplied by the
812 market share for that producer; provided, however, that in the first program year, the market
813 share identified for each television producer shall be based on the best available data regarding
814 the total number of televisions sold in the commonwealth for the previous calendar year; (4)
815 maintain a list of producers registered pursuant to this chapter; and (5) conduct periodic audits of
816 processors and collectors at a frequency determined by the department, to assure accuracy of
817 reporting and billing.

818 (b) The department shall adopt and may from time to time amend rules and regulations to carry
819 out the provisions this chapter. Such regulations shall include, but not be limited to, provisions
820 that establish (1) a process for registering covered electronic product collectors, processors and
821 producers, (2) a list of collector and processor reimbursement rates and establishment of not less
822 than monthly payment terms, (3) standards for operation, reporting and auditing of producers,
823 collectors and processors, (4) a list of covered and exempted electronic products, (5) collection
824 program standards to ensure adequate access to recycling of covered electronic products, (6)
825 procedures for the review of applications and for provision of adjudicatory hearings pursuant to
826 the provisions of chapter thirty A for any person aggrieved by a determination by the department
827 with respect to such applications, and (7) any other requirements necessary to carry out the
828 provisions of this chapter.

829

830 (c) Biennially, the department shall submit a report to the House Committee on Ways and
831 Means, the Senate Committee on Ways and Means, and the Joint Committee on Environment,

832 Natural Resources and Agriculture that includes information regarding the previous two program
833 years. The information shall include, but is not limited to, (1) the total administrative cost to the
834 state government, (2) the total administrative cost to local governments, (3) a description of the
835 incentive for manufacturer collection, (4) a description of the education, outreach, or other
836 marketing efforts conducted by the state or local governments to promote collection of covered
837 electronic products, and (5) the effectiveness of the independent collection program
838 requirements, independent collection program compliance, and collection rates of independent
839 programs.

840 (d) The department may, through regulation, amend the definitions of “covered electronic
841 products”, “covered computer products”, “covered television products”, and “additionally
842 covered electronic products” only to include additional products.

843

844 Section 7. (a) No person shall sell covered electronic products from producers not registered
845 pursuant to this chapter. A retailer shall not be in violation of this subsection if, at time of
846 purchase from producer, the producer was not in violation of this Chapter. This subsection shall
847 not apply to used electronic products that are reused.

848 (b) No person shall offer for sale a covered electronic product unless a visible, permanent
849 label clearly identifying the producer of that product is affixed to said covered electronic
850 product.

851 (c) All retailers shall provide information describing where and how to recycle a covered
852 electronic product provided by the producer and offered for sale by the retailer pursuant to this
853 act.

854 (d) No person shall knowingly dispose of any covered electronic product except as
855 provided in this chapter.

856 (e) No person shall import a covered electronic product into the commonwealth with the
857 intent of recycling or discarding said product; provided further, that any covered electronic
858 product so imported shall not be eligible for reimbursement under the provisions of this chapter.

859

860 Section 8. (a) The department shall be charged with the enforcement of this chapter. Whenever
861 it appears that there is a violation of any provision of this chapter, or of any approval or
862 regulation issued or adopted hereunder, the department may issue an order requiring the
863 production of records or information, or imposing such restraints on or requiring such actions, as
864 it deems necessary to abate or prevent such violation. The department also may issue such orders
865 and assess such penalties as it deems necessary to secure compliance with any approval or
866 regulation issued under this chapter. Issuance of an order or penalties under this section shall not
867 preclude, and shall not be deemed an election to forego, any action to recover damages, or, to
868 seek civil penalties, criminal fines and penalties, or injunctive relief.

869 (b) Any person who violates any provision of this chapter, or any regulation, order or
870 approval issued or adopted hereunder: (a) shall be punished by a fine of not more than twenty-
871 five thousand dollars, or by imprisonment for not more than two years in a house of correction,
872 or both, for each such violation; or (b) shall be subject to a civil penalty not to exceed twenty-
873 five thousand dollars for each such violation. Each day each such violation occurs or continues
874 shall be a separate offense. The superior court shall have jurisdiction to enjoin violations of, or
875 grant such additional relief as it deems necessary or appropriate to secure compliance with, the

876 provisions of this chapter, or any order, approval or regulation issued or adopted hereunder upon
877 the petition of the attorney general or the commissioner.

878 (c) Any person aggrieved by a determination by the department to issue, deny, modify,
879 revoke or suspend any approval, or to issue an order or penalty assessment, under the provisions
880 of this chapter, may request an adjudicatory hearing before the department under the provisions
881 of chapter thirty A. Any such determination shall contain a notice of this right to request a
882 hearing and may specify a time limit, not to exceed twenty-one days, within which said person
883 shall request said hearing. If no such request is timely made, the determination shall be deemed
884 assented to. If a timely request is received, the department shall within a reasonable time act
885 upon a request in accordance with the provisions of said chapter thirty A. A person aggrieved by
886 a final decision in an adjudicatory hearing held under the provisions of this section may obtain
887 judicial review thereof pursuant to the provisions of chapter thirty A.

888 Section 9. The department may participate in the establishment of a regional multistate
889 organization or compact to assist in carrying out the requirements of this chapter.

890 Section 10. (a) There shall be in the Department an advisory commission for electronic waste.
891 The commission shall consist of one individual representing covered television product
892 manufacturers, one individual representing processors of covered electronic products, one
893 individual representing a trade association of covered computer product manufacturers or
894 covered television product manufacturers, the Senate chair of the Joint Committee on
895 Environment, Natural Resources, and Agriculture or his designee, the House chair of the Joint
896 Committee on Environment, Natural Resources, and Agriculture or his designee, one individual
897 representing covered computer manufacturers, one individual representing retailers of covered

898 electronic products, one individual representing a statewide conservation organization, and the
899 Commissioner of the Department or his designee.

900 (b) Appointments to the advisory commission shall be made not later than thirty days after the
901 effective date of this statute. If a vacancy occurs on the commission, the vacancy shall be filled
902 within thirty days.

903 (c) Said advisory commission shall have the following duties: (1) It shall advise the Department
904 on policy and program development under this section, specifically regarding performance
905 standards; (2) It shall review the registration and renewal fees for producers, collectors and
906 processors, and shall make recommendations to the commissioner relative thereto; and (3) It
907 shall make recommendations to the Joint Committee on Environment, Natural Resources, and
908 Agriculture on recommendations of amending the definition of covered electronic product under
909 this statute to cover other electronic products, including but not limited to medical equipment.

910 (d) The advisory commission shall meet at least annually and shall convene special
911 meetings at the call of the Commissioner. These meetings are not subject to Chapter 39 of the
912 General Laws; however, a written record of all meetings of the committee shall be maintained by
913 the Department. Meetings may be held in person, by telephone conference, by video conference,
914 or by web conference. Members of the commission shall serve without compensation. The
915 members of the commission representing the Department or the General Court shall serve
916 without additional compensation.

917 SECTION 3. Notwithstanding any general or special law to the contrary and unless otherwise
918 specified herein, Section 1 of this act shall take effect July 1, 2012.

919 SECTION 4. Notwithstanding any general or special law to the contrary and unless otherwise
920 specified herein, Section 2 of this act shall take effect July 1, 2014.