
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 975 Session of
2017

INTRODUCED BY GORDNER, YUDICHAK, ARGALL, RAFFERTY, HUGHES,
STEFANO, WHITE AND TARTAGLIONE, DECEMBER 4, 2017

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, DECEMBER 4, 2017

AN ACT

1 Amending the act of November 23, 2010 (P.L.1083, No.108),
2 entitled "An act establishing a recycling program for certain
3 covered devices; imposing duties on manufacturers and
4 retailers of certain covered devices; providing for the
5 powers and duties of the Department of Environmental
6 Protection and for enforcement; establishing the Electronic
7 Materials Recycling Account in the General Fund; and
8 prescribing penalties," in preliminary provisions, further
9 providing for definitions; in duties of manufacturers and
10 retailers, further providing for registration and for
11 manufacturer plan and reporting, providing for manufacturer
12 collection and further providing for retailer responsibility;
13 and, in administration, further providing for duties of
14 Department of Environmental Protection.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 102 of the act of November 23, 2010
18 (P.L.1083, No.108), known as the Covered Device Recycling Act,
19 is amended by adding definitions to read:

20 Section 102. Definitions.

21 The following words and phrases when used in this act shall
22 have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 * * *

1 "Electronic waste." A covered device that has been
2 discarded, or is no longer wanted by its owner or for any other
3 reason, that enters the waste collection, recovery, treatment,
4 processing or recycling system.

5 "Electronic waste collection site." A facility at which
6 electronic waste is accepted from consumers and which is
7 temporarily stored for at least five days in a calendar year
8 before the waste is transported to an electronic waste
9 consolidation facility or electronic waste recycling facility.

10 "Electronic waste consolidation facility." A facility that
11 receives and stores electronic waste for the purpose of
12 organizing, categorizing or consolidating items of electronic
13 waste before the waste is transported to an electronic waste
14 recycling facility.

15 "Electronic waste recycling facility." A facility at which
16 electronic waste is recycled.

17 * * *

18 "Orphan product." A covered device for which its
19 manufacturer is no longer operational.

20 * * *

21 Section 2. Section 304(a) of the act is amended and the
22 section is amended by adding subsections to read:

23 Section 304. Registration.

24 (a) Manufacturers registration.--

25 (1) A manufacturer of new covered devices offered for
26 sale in this Commonwealth shall register with the department
27 by January 30, 2011, or six months after the effective date
28 of this section, whichever is later, and pay a registration
29 fee of \$5,000.

30 (2) After January 30, 2011, or six months after the

1 effective date of this section, whichever is later, if a
2 manufacturer has not previously filed a registration, the
3 manufacturer shall file a registration with the department
4 prior to any offer for sale or delivery in this Commonwealth
5 of the manufacturer's new covered devices and shall pay to
6 the department a registration fee of \$5,000.

7 (3) A registered manufacturer shall submit an annual
8 renewal of its registration to the department and pay to the
9 department a registration fee of \$5,000 by January 1 of each
10 program year. The registration and each annual renewal shall
11 include [a list of all brands the manufacturer is using on
12 its covered devices regardless of whether the manufacturer
13 owns or licenses the brand and shall be effective upon
14 receipt by the department.]:

15 (i) The manufacturer's name, address and telephone
16 number.

17 (ii) The name and title of an officer, director or
18 other individual designated as the manufacturer's contact
19 for purposes of this act.

20 (iii) A list identifying the manufacturer's brands.

21 (iv) A general description of the manner in which
22 the manufacturer will comply with section 305.1,
23 including specific information on the manufacturer's
24 electronic waste acceptance program in this Commonwealth
25 and a current list of locations within this Commonwealth
26 where consumers may return electronic waste.

27 (v) Sales data reported by weight for the
28 manufacturer's covered devices sold in this Commonwealth
29 for the previous three calendar years, categorized by
30 type to the extent known. If the manufacturer cannot

1 provide accurate Commonwealth sales data, the
2 manufacturer must explain why the data cannot be provided
3 and estimate Commonwealth sales data by:

4 (A) dividing the manufacturer's national sales
5 data by weight by the national population according
6 to the most recent census and multiplying the result
7 by the population of this Commonwealth; or

8 (B) another method approved by the department.

9 (vi) Any other information as the department may
10 require.

11 * * *

12 (c) Registration.--After the effective date of this
13 subsection, a manufacturer may not sell or offer for sale
14 covered devices in this Commonwealth unless the manufacturer has
15 registered with the department and maintains an electronic waste
16 acceptance program through which the manufacturer, either
17 directly or through an agent or designee, accepts electronic
18 waste from consumers in this Commonwealth for recycling. The
19 manufacturer must ensure that each retailer is notified of the
20 registration.

21 (d) Electronic waste collection site registration.--After
22 the effective date of this subsection, each person who owns or
23 operates an electronic waste collection site in this
24 Commonwealth shall:

25 (1) Register with the department on a form and in a
26 manner prescribed by the department. The registration must
27 include:

28 (i) the name, address and telephone number of each
29 owner and operator of the electronic waste collection
30 site; and

1 (ii) the name, address and telephone number of the
2 electronic waste collection site. A person who commences
3 the operation of an electronic waste collection site
4 after the effective date of this subsection must register
5 with the department at least 30 days prior to receiving
6 electronic waste at the collection site. A registration
7 shall be effective upon acceptance by the department. If
8 a collection site is operated by a retailer, a single
9 registration listing the name, address and telephone
10 number of the individual collection sites may be
11 submitted covering all of the retailer's collection
12 sites.

13 (2) Beginning with the immediately succeeding March 1
14 after the effective date of this subsection, and each March 1
15 thereafter, each person operating an electronic waste
16 collection site shall submit to the department an annual
17 report for the previous calendar year on a form and in the
18 manner prescribed by the department. Annual reports shall
19 include the following information:

20 (i) The quantity, by weight, of electronic waste
21 received from consumers in this Commonwealth.

22 (ii) The name and address of each person to whom the
23 electronic waste collection site sent electronic waste
24 during the reporting period, with the quantity, by
25 weight, of electronic waste that was sent to each person.

26 (iii) The weight of electronic waste collected on
27 behalf of or under an agreement with each manufacturer
28 during the reporting period.

29 (3) Manage electronic waste in a manner that complies
30 with applicable Federal, State and local laws, regulations

1 and ordinances.

2 (4) Store electronic waste:

3 (i) in a fully enclosed building with a roof, floor
4 and walls; or

5 (ii) in a secure container that is constructed and
6 maintained to minimize breakage of electronic waste and
7 to prevent releases of hazardous materials to the
8 environment.

9 (5) Remove electronic waste from the site within one
10 year of the waste's receipt at the site and maintain records
11 demonstrating compliance with this requirement.

12 (e) Electronic waste consolidation facility registration.--

13 (1) Within 30 days of the effective date of this
14 subsection, each person who operates an electronic waste
15 consolidation facility in this Commonwealth shall register
16 with the department on a form and in a manner prescribed by
17 the department. The registration must include:

18 (i) The name, address and telephone number of the
19 owner and operator of the facility.

20 (ii) The name, address and telephone number of the
21 electronic waste consolidation facility. A person who
22 commences the operation of an electronic waste
23 consolidation facility after the effective date of this
24 subsection shall register with the department at least 30
25 days prior to receiving any electronic waste. A
26 registration shall be effective upon acceptance by the
27 department. A registration required under this
28 subparagraph must be accompanied by a registration fee of
29 \$250.

30 (2) Beginning with the immediately succeeding March 1

1 after the effective date of this subsection, and each March 1
2 thereafter, each person operating an electronic waste
3 consolidation facility shall submit to the department an
4 annual report for the previous calendar year on a form and in
5 the manner prescribed by the department. The department may
6 require annual reports to be filed electronically. Annual
7 reports shall include the following information:

8 (i) The name and address of each electronic waste
9 collection site from which the consolidation facility
10 received electronic waste during the reporting period,
11 with the quantity, by weight, of electronic waste
12 received from each collection site.

13 (ii) The name and address of each person to whom the
14 electronic waste consolidation facility sent electronic
15 waste during the reporting period, with the quantity, by
16 weight, of electronic waste that was sent to each person.

17 (iii) The weight of electronic waste collected on
18 behalf of or pursuant to an agreement with each
19 manufacturer during the reporting period.

20 (iv) A certification by the owner or operator of the
21 electronic waste consolidation facility that the facility
22 has complied with the requirements of this act and other
23 applicable laws.

24 (3) Each person operating an electronic waste
25 consolidation facility shall:

26 (i) Manage electronic waste in a manner that
27 complies with applicable Federal, State and local laws,
28 regulations and ordinances.

29 (ii) Store electronic waste:

30 (A) in a fully enclosed building with a roof,

1 floor and walls; or

2 (B) in a secure container that is constructed
3 and maintained to minimize breakage of electronic
4 waste and to prevent releases of hazardous materials
5 to the environment.

6 (iii) Have a means to control entry to the active
7 portion of the facility.

8 (iv) Inform each employee who handles or has
9 responsibility for managing electronic waste about the
10 proper handling of and emergency procedures appropriate
11 to each type of electronic waste handled at the facility.

12 (v) Remove electronic waste from the site within one
13 year of the waste's receipt at the site and maintain
14 records demonstrating compliance with this requirement.

15 (vi) Maintain the records required under paragraphs
16 (1) and (2) and subparagraph (v) on site and make the
17 records available for audit and inspection by the
18 department for a period of at least three years.

19 (4) A person operating an electronic waste consolidation
20 facility may not engage in electronic waste recycling unless
21 the person is registered as an electronic waste recycling
22 facility and complies with the requirements of this section
23 that are applicable to each type of facility.

24 (5) A person operating an electronic waste consolidation
25 facility may accept electronic waste in the same manner as an
26 electronic waste collection site if the person complies with
27 the requirements of this section that are applicable to
28 electronic waste collection sites.

29 (f) Electronic waste recycling facility registration.--

30 (1) Within 30 days of the effective date of this

1 subsection, each person operating an electronic waste
2 recycling facility in this Commonwealth shall register with
3 the department on a form and in the manner prescribed by the
4 department. The registration shall include:

5 (i) The name, address and telephone number of the
6 owner and operator of the facility.

7 (ii) The name, address and telephone number of the
8 electronic waste recycling facility. A person who
9 commences the operation of an electronic waste recycling
10 facility after the effective date of this subsection
11 shall register with the department at least 30 days prior
12 to receiving electronic waste. A registration shall be
13 effective upon acceptance by the department. A
14 registration required under this paragraph must be
15 accompanied by a registration fee of \$250.

16 (2) Beginning with the immediately succeeding March 1
17 after the effective date of this subsection, and each March 1
18 thereafter, each person operating an electronic waste
19 recycling facility shall submit to the department an annual
20 report for the previous calendar year on a form and in a
21 manner prescribed by the department. Annual reports shall
22 include the following information:

23 (i) The quantity, by weight, of electronic waste
24 received from consumers in this Commonwealth.

25 (ii) The name and address of each electronic waste
26 collection site and electronic waste consolidation
27 facility from which electronic waste was received during
28 the reporting period, with the quantity, by weight, of
29 electronic waste received from each person.

30 (iii) The name and address of each person to whom

1 the facility sent electronic waste or component materials
2 during the reporting period, with the quantity, by
3 weight, of electronic waste or component materials of
4 electronic waste sent to each person.

5 (iv) The weight of electronic waste collected on
6 behalf of or pursuant to an agreement with each
7 manufacturer during the reporting period.

8 (v) A certification by the owner or operator of the
9 facility that the facility has complied with the
10 requirements of this act and other laws, rules and
11 regulations.

12 (3) Each person operating an electronic waste recycling
13 facility shall:

14 (i) Manage and recycle electronic waste in a manner
15 that complies with applicable Federal, State and local
16 laws, regulations and ordinances.

17 (ii) Store electronic waste:

18 (A) in a fully enclosed building with a roof,
19 floor and walls; or

20 (B) in a secure container that is constructed
21 and maintained to minimize breakage of electronic
22 waste and to prevent releases of hazardous materials
23 to the environment.

24 (iii) Have a means to control entry through gates or
25 other entrances to the active portion of the facility.

26 (iv) Inform each employee who handles or has
27 responsibility for managing electronic waste about proper
28 handling of and emergency procedures appropriate to each
29 type of electronic waste handled at the facility.

30 (v) Remove electronic waste from the site within one

1 year of the waste's receipt at the site and maintain
2 records demonstrating compliance with this requirement.

3 (vi) Maintain the records required under paragraphs
4 (1) and (2) and subparagraph (v) on site and make the
5 records available for audit and inspection by the
6 department for a period of at least three years.

7 (4) A person operating an electronic waste recycling
8 facility may also operate a facility as an electronic waste
9 consolidation facility if the person complies with the
10 requirements of this section that are applicable to each type
11 of facility. If a facility is operated for both purposes,
12 only one registration fee must be paid.

13 (5) A person operating an electronic waste recycling
14 facility may accept electronic waste in the same manner as an
15 electronic waste collection site if the person complies with
16 the requirements of this section that are applicable to
17 electronic waste collection sites.

18 (6) Except as required under law, a manufacturer or
19 person operating an electronic waste collection site,
20 electronic waste consolidation facility or electronic waste
21 recycling facility shall not have responsibility or liability
22 for data in any form stored on electronic waste surrendered
23 for recycling or reuse, except if the person misuses or
24 knowingly and intentionally, or with gross negligence,
25 discloses the data. This paragraph shall not prohibit a
26 person from entering into an agreement that provides for the
27 destruction of data on covered electronic equipment.

28 Section 3. Section 305(b) (1), (3) and (6) and (c) of the act
29 are amended and subsection (b) is amended by adding paragraphs
30 to read:

1 Section 305. Manufacturer plan and reporting.

2 * * *

3 (b) Contents of plan.--The plan required under subsection
4 (a) shall include:

5 (1) [Methods that will be used to collect the covered
6 devices, including the name and locations of proposed
7 collection sites.] Methods that will be used for the
8 collection, handling and recycling or reuse of electronic
9 waste pursuant to section 305.1 in a manner convenient to
10 consumers. The following acceptance methods shall be
11 considered reasonably convenient:

12 (i) mail or ship back return programs;

13 (ii) collection or acceptance events conducted by
14 the manufacturer or the manufacturer's agent or designee,
15 including events conducted through local governments or
16 private parties;

17 (iii) fixed acceptance locations such as dedicated
18 acceptance sites operated by the manufacturer or the
19 manufacturer's agent or designee;

20 (iv) agreements with local governments, retail
21 stores, sales outlets and not-for-profit organizations
22 which have agreed to provide facilities for the
23 collection of electronic waste;

24 (v) community collection events; and

25 (vi) any combination of the methods under this
26 paragraph or other acceptance methods which effectively
27 provide for the acceptance of electronic waste for
28 recycling or reuse through means that are available and
29 reasonably convenient to consumers in this Commonwealth.

30 (1.1) The manufacturer must ensure that all counties of

1 this Commonwealth, and each municipality which has a
2 population of at least 25,000 have at least one method of
3 acceptance that is available within the county or
4 municipality. Each facility should be adequately staffed and
5 be open during hours convenient for local residents. The
6 department may establish additional requirements to ensure
7 convenient collection from consumers.

8 * * *

9 (3) [Means that will be utilized to publicize the
10 collection opportunities, including specification of an
11 Internet website address or toll-free telephone number that
12 provides information about the manufacturer's program in
13 sufficient detail to allow consumers to learn how to return
14 their covered devices for recycling.] A public education
15 program to inform consumers about the manufacturer's
16 electronic waste acceptance program, including:

17 (i) A publicly accessible Internet website and a
18 toll-free telephone number and written information
19 included in the product manual for, or at the time of
20 sale of, covered electronic equipment that provides
21 sufficient information to allow a consumer of covered
22 electronic equipment to learn how to return the covered
23 equipment for recycling or reuse. For manufacturers of
24 computers, hard drives and other covered electronic
25 equipment that have internal memory on which personal or
26 other confidential data can be stored, the website must
27 provide instructions for how consumers can destroy the
28 data before surrendering the products for recycling or
29 reuse.

30 (ii) Advertisements and press releases, if any.

1 * * *

2 (6) For an initial plan submitted by a manufacturer or
3 group of manufacturers, an estimate of the weight of covered
4 devices to be collected during the first program year. [The
5 plan shall also include information demonstrating the process
6 by which the manufacturer or group of manufacturers will
7 increase the collection of covered devices by a minimum of 2%
8 by weight per year beginning with the second full program
9 year.]

10 (7) Information on how consumers can destroy data on
11 electronic waste, through physical destruction of the hard
12 drive or through data wiping.

13 (8) Any other information required by the department in
14 accordance with regulations promulgated under this article.

15 (c) Reporting by manufacturers.--

16 (1) Beginning with the immediately succeeding March 1
17 after the effective date of this paragraph, and each March 1
18 thereafter, a manufacturer that offers covered electronic
19 equipment for sale in this Commonwealth shall submit a report
20 to the department on a form prescribed by the department that
21 includes the following:

22 (i) Sales data reported by weight for the
23 manufacturer's covered devices sold in this Commonwealth
24 for the previous three calendar years, categorized by
25 type to the extent known. If the manufacturer cannot
26 provide accurate Commonwealth sales data, the
27 manufacturer must explain why the data cannot be provided
28 and estimate Commonwealth sales data by:

29 (A) dividing the manufacturer's national sales
30 data by weight by the national population according

1 to the most recent census and multiplying the result
2 by the population of this Commonwealth; or

3 (B) another method approved by the department.

4 (ii) The quantity, by weight, of electronic waste
5 collected for recycling or reuse in this Commonwealth,
6 categorized by the type of covered devices collected
7 during the reporting period, the methods used to accept
8 the electronic waste and the approximate weight of
9 electronic waste accepted by each method used to the
10 extent known.

11 (iii) Quantities of electronic waste reported by the
12 manufacturer must separately include:

13 (A) The quantity, by weight, of electronic waste
14 received directly from consumers in this Commonwealth
15 through a mail back program.

16 (B) The name and address of each electronic
17 waste collection site, electronic waste consolidation
18 facility and electronic waste recycling facility at
19 which electronic waste from consumers was received on
20 behalf of the manufacturer during the reporting
21 period, along with the quantity, by weight, of
22 electronic waste received.

23 (C) The name and address of each person to whom
24 the manufacturer sent electronic waste or component
25 materials during the reporting period, along with the
26 quantity, by weight, of electronic waste or component
27 materials of electronic waste sent to each person.

28 (iv) The number of electronic waste acceptance
29 credits purchased, sold, banked and traded during the
30 reporting period, the number of electronic waste

1 acceptance credits used to meet the requirements of
2 section 305.1, from whom the credits were purchased and
3 to whom the credits were sold or traded and the number of
4 electronic waste acceptance credits retained as of the
5 date of the report.

6 (v) The amount of each recycling surcharge owed for
7 the reporting period, with sufficient information to
8 demonstrate the basis for calculation of the surcharge.

9 (vi) Each name and location of electronic waste
10 recycling facilities utilized by the manufacturer and
11 entities to which electronic waste is sent for reuse,
12 inside or outside of this Commonwealth, including details
13 on the methods of recycling or reuse of electronic waste,
14 any disassembly or physical recovery operation used and
15 the environmental management measures implemented by the
16 recycling facility or entity.

17 (vii) Information detailing the acceptance methods
18 made available to consumers in municipalities which have
19 a population greater than 25,000 and in each county of
20 this Commonwealth to meet the requirements of subsection
21 (b)(1).

22 (viii) A brief description of the manufacturer's
23 public education program, including the number of visits
24 to the publicly accessible Internet website and calls to
25 the toll-free telephone number provided by the
26 manufacturer;

27 (ix) Any other information as required by the
28 department.

29 (x) A signature by an officer, director or other
30 individual affirming the accuracy of the report.

1 (2) The department may require annual reports to be
2 filed electronically.

3 [(1)] (3) (i) In addition to reporting all brands under
4 which its covered devices are offered for sale,
5 regardless of whether the manufacturer owns or licenses
6 the brand, the manufacturer's annual report to the
7 department shall include an estimate of the total weight
8 of its covered devices sold to households during the
9 previous year calculated by multiplying the weight of its
10 covered devices sold nationally times the quotient of
11 this Commonwealth's population divided by the national
12 population.

13 (ii) The report required under this paragraph shall
14 be submitted to the department upon initial registration
15 and then by January 30 each year thereafter.

16 [(2)] (4) When a manufacturer or group of manufacturers
17 conducts its own collection, transportation and recycling
18 program for covered devices, the manufacturer or group of
19 manufacturers shall submit a report to the department
20 annually by January 30, beginning the year after the program
21 is initiated. The report shall consist of the total weight of
22 covered devices collected from consumers in this Commonwealth
23 by the manufacturer or group of manufacturers during the
24 previous year and documentation verifying collection and
25 recycling of the devices.

26 * * *

27 Section 4. The act is amended by adding a section to read:

28 Section 305.1. Manufacturer collection.

29 (a) Acceptance of covered devices.--On and after the
30 effective date of this section, a manufacturer of covered

1 devices must accept for collection, handling and recycling or
2 reuse:

3 (1) Electronic waste for which the electronic waste is
4 provided by the manufacturer. The electronic waste shall
5 count toward the amount of electronic waste required to be
6 accepted under this section.

7 (2) One piece of electronic waste of any manufacturer's
8 brand if offered by a consumer as part of a transaction to
9 purchase a covered device of the same type. The electronic
10 waste shall count toward the amount of the electronic waste
11 required to be accepted under this section.

12 (3) Orphan products in an amount equivalent to the
13 manufacturer's market share of each orphan product presented
14 for collection, as determined under subsection (d)(2).

15 (b) Acceptance of covered devices.--On and after the
16 effective date of this section, each manufacturer must accept
17 for collection, handling and recycling or reuse the
18 manufacturer's acceptance standard under subsection (d).

19 (c) Statewide recycling or reuse goal.--

20 (1) For the first calendar year beginning after the
21 effective date of this section, the Statewide recycling or
22 reuse goal for electronic waste shall be the product of the
23 latest population estimate for this Commonwealth, as
24 published by the United States Census Bureau, multiplied by
25 three pounds.

26 (2) For the second calendar year beginning after the
27 effective date of this section, the Statewide recycling or
28 reuse goal for electronic waste shall be the product of the
29 latest population estimate for this Commonwealth, as
30 published by the United States Census Bureau, multiplied by

1 four pounds.

2 (3) For the third calendar year beginning after the
3 effective date of this section, the Statewide recycling or
4 reuse goal for electronic waste shall be the product of the
5 latest population estimate for this Commonwealth, as
6 published by the United States Census Bureau, multiplied by
7 five pounds.

8 (4) For the fourth calendar year beginning after the
9 effective date and annually thereafter, the Statewide
10 recycling or reuse goal for electronic waste shall be the
11 product of the base weight multiplied by the goal attainment
12 percentage. For the purposes of this paragraph, the term
13 "base weight" means the greater of:

14 (i) the average weight of electronic waste collected
15 for recycling or reuse during the previous three calendar
16 years as reported to the department under section 305(c)
17 (1); or

18 (ii) the three-year average of the sum of
19 electronic waste collected for recycling or reuse during
20 the previous three calendar years based on information
21 reported to the department under section 304(d), (e) and
22 (f).

23 (5) For the purposes of this subsection, the term "goal
24 attainment percentage" means:

25 (i) Ninety percent if the base weight is less than
26 90% of the Statewide recycling or reuse goal for the
27 previous calendar year.

28 (ii) Ninety-five percent, if the base weight is at
29 least 90% but does not equal 95% of the Statewide
30 recycling or reuse goal for the previous calendar year.

1 (iii) One hundred percent if the base weight is at
2 least 95% but does not equal 105% percent of the
3 Statewide recycling or reuse goal for the previous
4 calendar year.

5 (iv) One hundred five percent if the base weight is
6 at least 105% percent but does not equal 110% of the
7 Statewide recycling or reuse goal for the previous
8 calendar year.

9 (v) One hundred ten percent if the base weight is at
10 least 110% of the Statewide recycling or reuse goal for
11 the previous calendar year.

12 (d) Manufacturer acceptance standard.--

13 (1) Calculated annually, each manufacturer's acceptance
14 standard shall be the product of the Statewide recycling or
15 reuse goal under subsection (c) (1), (2), (3) or (4), as
16 appropriate, multiplied by the manufacturer's market share
17 under subsection (e).

18 (2) Each manufacturer's market share and orphan product
19 share of electronic waste shall be determined by the
20 department based on the manufacturer's percentage share of
21 the total weight of covered electronic equipment sold as
22 determined by the best available information, including
23 Commonwealth sales data reported by weight. On an annual
24 basis, the department shall provide each manufacturer with a
25 determination of the manufacturer's market share and orphan
26 product share of electronic waste which shall be the quotient
27 of the total weight of the manufacturer's covered electronic
28 equipment sold to persons in this Commonwealth based on the
29 average annual retail sales during the preceding three
30 calendar years, as reported under sections 304(a) (3) and

1 305(c) divided by the total weight of each manufacturer
2 covered electronic equipment sold to persons in this
3 Commonwealth based on the average annual retail sales during
4 the preceding three calendar years, as reported under
5 sections 304(a)(3) and 305(c).

6 (e) Recycling surcharge.--Beginning in the third calendar
7 year after the effective date of this section, a manufacturer
8 that fails to meet its manufacturer's acceptance standard for
9 the previous calendar year under subsection (d) shall be subject
10 to a recycling surcharge, determined as follows:

11 (1) If a manufacturer accepts at least 90% but less than
12 100% of its manufacturer's acceptance standard under
13 subsection (d), the recycling surcharge shall be 30¢
14 multiplied by the number of additional pounds of electronic
15 waste that should have been accepted by the manufacturer.

16 (2) If a manufacturer accepts at least 50% but less than
17 90% of its manufacturer's acceptance standard under
18 subsection (d), the recycling surcharge shall be 40¢
19 multiplied by the number of additional pounds of electronic
20 waste that should have been accepted by the manufacturer.

21 (3) If a manufacturer accepts less than 50% of its
22 manufacturer's acceptance standard under subsection (d), the
23 surcharge shall be 50¢ multiplied by the number of additional
24 pounds of electronic waste that should have been accepted by
25 the manufacturer.

26 (f) Payment.--The recycling surcharge shall be paid to the
27 department with the annual report required under section 305(c).

28 (g) Electronic waste acceptance credits.--Beginning with the
29 fourth calendar year after the effective date of this section,
30 if a manufacturer accepts more than its manufacturer's

1 acceptance standard under subsection (d), the excess weight may
2 be used as electronic waste acceptance credits and may be sold,
3 traded or banked for a period no longer than three calendar
4 years after the year in which the credits were earned. No more
5 than 25% of a manufacturer's obligation for a calendar year may
6 be met with recycling credits generated in a prior calendar
7 year.

8 Section 5. Section 306 of the act is amended to read:

9 Section 306. Retailer responsibility.

10 (a) Public notice.--A retailer shall notify customers about
11 the manner in which to recycle a covered device and of the
12 locations for the collection and return of covered devices. This
13 notification shall occur either by posting the information
14 within the retail location, by providing the department's toll-
15 free telephone number, a publicly accessible Internet website or
16 both or by providing retailer-developed information.

17 (b) Compliance.--A retailer shall comply with sections
18 302(a) and (c) and 303.

19 (c) Additional responsibilities.--

20 (1) A manufacturer shall maintain records demonstrating
21 compliance with this act and make the records available for
22 audit and inspection by the department for a period of at
23 least three years.

24 (2) The following shall apply:

25 (i) A manufacturer shall be responsible for each
26 cost associated with the implementation of the electronic
27 waste acceptance program.

28 (ii) A manufacturer may not charge consumers for the
29 collection, handling and recycling and reuse of
30 electronic waste, except for a charge on business

1 consumers or a charge for premium services. This
2 subparagraph shall not apply to a manufacturer's contract
3 with a consumer for the collection, handling, recycling
4 or reuse of electronic waste that was entered into prior
5 to the effective date of this subparagraph.

6 (d) Definitions.--As used in this section, the following
7 words and phrases shall have the meanings given to them in this
8 subsection unless the context clearly indicates otherwise:

9 "Business consumer." A for-profit entity which has at least
10 50 full-time employees or a not-for-profit corporation with at
11 least 75 full-time employees. The term shall not include a not-
12 for-profit corporation designated under section 501(c)(3) of the
13 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
14 501(c)(3)).

15 "Premium services." Equipment and data security services,
16 refurbishment for reuse by the consumer and other custom
17 services as may be determined by the department.

18 Section 6. Section 501 of the act is amended by adding a
19 paragraph to read:

20 Section 501. Duties of department.

21 The department shall:

22 * * *

23 (6) Determine the market share and orphan product share
24 for each registered manufacturer.

25 Section 7. This act shall take effect in 60 days.