

FIRST REGULAR SESSION

HOUSE BILL NO. 1032

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NICHOLS.

2220L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 260.1050, 260.1053, 260.1059, 260.1062, 260.1065, 260.1068, 260.1071, 260.1074, 260.1077, 260.1080, 260.1083, 260.1089, 260.1092, and 260.1101, RSMo, and to enact in lieu thereof eighteen new sections relating to the electronic products recycling and reuse act, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 260.1050, 260.1053, 260.1059, 260.1062, 260.1065, 260.1068, 260.1071, 260.1074, 260.1077, 260.1080, 260.1083, 260.1089, 260.1092, and 260.1101, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 260.1200, 260.1202, 260.1204, 260.1206, 260.1208, 260.1210, 260.1212, 260.1214, 260.1216, 260.1218, 260.1220, 260.1222, 260.1224, 260.1226, 260.1228, 260.1230, 260.1232, and 260.1234, to read as follows:

260.1200. Sections 260.1200 to 260.1234 shall be known and may be cited as the "Electronic Products Recycling and Reuse Act".

260.1202. As used in sections 260.1200 to 260.1234, the following terms shall mean:

(1) "Cathode-ray tube", a vacuum tube or picture tube used to convert an electronic signal into a visual image, such as a television or computer monitor;

(2) "Collector", a person who receives covered electronic devices or eligible electronic devices received from a residence, school, or small business for recycling processing. Collector includes, but is not limited to original equipment manufacturers, (OEMs) and processors who receive covered electronic devices (CEDs) or eligible electronic devices (EEDs) directly from the public;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 (3) "Covered electronic device" or "CED", any computer, laptop, notebook,
10 desktop computer, computer monitor, television, or computer printer that is taken out of
11 service from a residence, school, or a small business in this state regardless of purchase
12 location. Covered electronic device does not include:

13 (a) An electronic device that is functionally or physically part of a larger piece of
14 equipment or that is taken out of service from an industrial, commercial (including retail),
15 library checkout, traffic control, kiosk, security (other than household security),
16 governmental, agricultural, or medical setting, including but not limited to diagnostic,
17 monitoring, or control equipment;

18 (b) An electronic device that is contained within a clothes washer, clothes dryer,
19 refrigerator, refrigerator and freezer, microwave oven, conventional oven or range,
20 dishwasher, room air conditioner, dehumidifier, water pump, sump pump, air purifier, or
21 water softener; or

22 (c) An electronic device that is a part of a motor vehicle or any component part of
23 a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including
24 replacement parts for use in a motor vehicle.

25

26 A CED that is being collected, recycled, or processed for reuse in compliance with the
27 Resource Conservation Recovery Act (RCRA) is considered to be an exempt hazardous
28 waste, household waste, solid waste, or special waste;

29 (4) "Department", the Missouri department of natural resources;

30 (5) "Dismantling", breaking down CEDs to component level;

31 (6) "Eligible electronic device" or "EED", any of the following electronic products
32 taken out of service from a residence, school, or small business in this state regardless of
33 purchase location: mobile telephone; computer cable, mouse, or keyboard; stand-alone
34 facsimile machine; MP3 player; portable digital assistant (PDA); video game console, video
35 cassette recorder/player, digital video disk player, or similar video device; zip drive; or
36 scanner. An EED that is being collected, recycled, or processed for reuse in compliance
37 with the Resource Conservation Recovery Act (RCRA) is considered to be an exempt
38 hazardous waste, household waste, solid waste, or special waste;

39 (7) "Original equipment manufacturer" or "OEM", a person, or a successor in
40 interest to a person, under whose brand or label a CED or EED is or was sold at retail. For
41 CEDs or EEDs sold at retail under a brand or label that is licensed from a person who is
42 a mere brand owner and who does not sell or produce the CED or EED, the person who
43 produced the CED or EED or his or her successor in interest is the OEM. For CEDs or
44 EEDs sold that were at retail under the brand or label of both the retail seller and the

45 person that produced the CED or EED, the person that produced the CED or EED, or his
46 or her successor in interest, is the OEM. A retail seller of CEDs or EEDs may elect to be
47 the OEM of one or more CEDs or EEDs if the retail seller provides written notice to the
48 department that it is accepting responsibility as the OEM of the CED or EED under
49 sections 260.1200 to 260.1234 and identifies the CEDs or EEDs for which it is electing to
50 be the OEM;

51 (8) "Person", any individual, partnership, copartnership, firm, company, limited
52 liability company, corporation, association, joint stock company, trust, estate, political
53 subdivision, state agency, or any other legal entity, or a legal representative, agent, or
54 assign of that entity;

55 (9) "Processing for reuse", any method, technique, or process by which CEDs or
56 EEDs that would otherwise be disposed of or discarded are instead separated, processed,
57 and returned to their original intended purposes or to other useful purposes as electronic
58 devices;

59 (10) "Processor", an organization or person who receives covered electronic devices
60 or eligible electronic devices directly from a residence, small business, or from a collector
61 for the purpose of recycling as described in section 260.1210;

62 (11) "Program year", a calendar year. The first program year is 2017;

63 (12) "Recycling", any method, technique, or process by which CEDs or EEDs that
64 would otherwise be disposed of or discarded are instead collected, separated, or processed;

65 (13) "Residence", a dwelling place or home in which one or more individuals live;

66 (14) "Small business", a business with fewer than one hundred full- or part-time
67 employees;

68 (15) "Solid waste management district" or "SWMD", as set forth in section
69 260.305;

70 (16) "Television", an electronic device:

71 (a) Containing a cathode-ray tube or flat panel screen the size of which is greater
72 than four inches when measured diagonally;

73 (b) That is intended to receive video programming via broadcast, cable, or satellite
74 transmission or to receive video from surveillance or other similar cameras; and

75 (c) That is used only in residences, schools, or small businesses.

260.1204. 1. The OEM's recovery goals shall be as follows:

2 (1) For program year 2017, the equivalent of forty percent of the OEM's CED or
3 EED units sold in the state in 2016;

4 (2) For program year 2018, the equivalent of fifty percent of the OEM's CED or
5 EED units sold in the state in 2017;

6 **(3) For program year 2019, the equivalent of sixty percent of the OEM's CED or**
7 **EED units sold in the state in 2018;**

8 **(4) For program year 2020 and every year thereafter, the equivalent of seventy-five**
9 **percent of the OEM's CED or EED units sold in the state the previous calendar year.**

10 **2. If the goals in this section are not reached, a fine of fifteen thousand dollars may**
11 **be assessed.**

260.1206. 1. The department has the authority to monitor compliance with sections
2 **260.1200 to 260.1234 and to refer violations of sections 260.1200 to 260.1234 to the attorney**
3 **general.**

4 **2. No later than October first of each program year, the department shall post on**
5 **its website a list of underserved solid waste management districts in the state for the next**
6 **program year. The list of underserved solid waste management districts for the first**
7 **program year is set forth in section 260.1216.**

8 **3. By September 1, 2016, the department shall implement a solid waste**
9 **management district and municipal government education campaign to inform those**
10 **entities about sections 260.1200 to 260.1234 and the implications on solid waste collection**
11 **in their localities.**

12 **4. By September 1, 2018, for the first program year, and by**
13 **April first for all subsequent program years, the department shall report to the governor**
14 **and to the general assembly annually on the previous program year's performance. The**
15 **report shall be posted on the department's website. The report shall include, but not be**
16 **limited to, the following:**

17 **(1) The total units of CEDs and EEDs that were recycled or processed for reuse in**
18 **the state during the program year, as reported by OEMs, EEDs, and collectors under**
19 **sections 260.1208 and 260.1214;**

20 **(2) A listing of all permanent collection sites as set forth under subsection 4 of**
21 **section 260.1214;**

22 **(3) A statement of the OEMs' progress toward achieving the statewide recycling**
23 **goal set forth in section 260.1204 (calculated from the OEM reports under section 260.1208**
24 **and the collector reports under section 260.1214) and any identified state actions that may**
25 **help expand collection opportunities to help OEMs achieve the statewide recycling goal of**
26 **CEDs or EEDs;**

27 **(4) A listing of any OEMs whom the department referred to the attorney general's**
28 **office for enforcement as a result of a violation of sections 260.1200 to 260.1234;**

29 **(5) A discussion of the department's education and outreach activities; and**

30 **(6) A discussion of the penalties, if any, incurred by OEMs for failure to achieve**
31 **recycling goals, and a recommendation to the general assembly of any necessary or**
32 **appropriate changes to the statewide recycling goals, OEM's recycling goals, or penalty**
33 **provisions in sections 260.1200 to 260.1234.**

34 **5. The department shall post on its website:**

35 **(1) A list of OEMs that have paid the current year's registration fee as set forth in**
36 **subsection 2 of section 260.1208; and**

37 **(2) A list of registered collectors to whom Missouri residents can bring CEDs or**
38 **EEDs for recycling or processing for reuse, including links to the collectors' websites and**
39 **the collectors' phone numbers.**

40 **6. No later than October first of each program year, the department shall post on**
41 **its website the following information for the next program year:**

42 **(1) The overall statewide recycling and reuse goal for CEDs and EEDs; and**

43 **(2) The individual recycling goals for each OEM, as set forth in section 260.1204.**

44 **7. By March 1, 2018, and by March first of each subsequent year, the department**
45 **shall post on its website a list of registered OEMs that have not met their annual recycling**
46 **and reuse goal for the previous program year.**

47 **8. (1) By July 1, 2018, the department shall solicit written comments regarding all**
48 **aspects of the program codified in sections 260.1200 to 260.1234, for the purpose of**
49 **determining if the program requires any modifications.**

50 **(2) Issues to be reviewed by the department are, but not limited to, the following:**

51 **(a) Sufficiency of the annual statewide recycling goals;**

52 **(b) Fairness of the formulas used to determine individual OEM goals;**

53 **(c) Any temporary recisions of solid waste management district landfill bans**
54 **granted in this state under subsection 6 of section 260.1228;**

55 **(d) Adequacy of, or the need for, the penalties listed in section 260.1222, which are**
56 **scheduled to take effect on January 1, 2017;**

57 **(e) Adequacy of the collection systems that have been implemented as a result of**
58 **sections 260.1200 to 260.1234, with a particular focus on promoting the most cost-effective**
59 **and convenient collection system possible for Missouri residents.**

60 **(3) By July 1, 2019, the department shall complete its review of the written**
61 **comments received, as well as its own reports on program years 2017 and 2018. By August**
62 **1, 2019, the department shall hold a public hearing to present its findings and solicit**
63 **additional comments. All additional comments shall be submitted to the department in**
64 **writing no later than October 1, 2019.**

65 (4) The department's final report, which shall be issued no later than February 1,
66 2020, shall be submitted to the governor and the general assembly and shall include
67 specific recommendations for any necessary or appropriate modifications to the program.

260.1208. 1. Prior to April 1, 2017, for the first program year, and by October first
2 for program year 2018 and thereafter, OEMs selling CEDs or EEDs in this state shall
3 register with the department. The registration shall be submitted in the form and manner
4 required by the department. The registration shall include, without limitation, a list of all
5 of the OEM's brands of CEDs and EEDs.

6 2. Prior to September 1, 2017, for the first program year, and by the November first
7 preceding program years 2018 and later, all OEMs whose CEDs and EEDs are sold in the
8 state shall submit to the department, at an address prescribed by the department, the
9 registration fee for the next program year. The registration fee for the program shall be
10 a tiered system, based on the number of units sold by an OEM in the state during a
11 program year. The fees are to be determined during the rulemaking process. The annual
12 fee cannot exceed ten thousand dollars per year per OEM.

13 3. An OEM whose CEDs or EEDs are first sold or offered for sale in this state on
14 or after January first of a program year shall register with the department in accordance
15 with subsection 1 of this section and submit the registration fee required under subsection
16 2 of this section prior to the OEM's CEDs or EEDs are sold or offered for sale.

17 4. Each OEM shall recover and recycle CEDs or EEDs whose total units equal or
18 exceed the OEM's individual recycling goal set forth in section 260.1204. Collectors or
19 processors may assess a fee to individual consumers, schools, and small businesses for the
20 collection and recovery of CRT monitors and CRT televisions. Collectors may charge a
21 fee for premium services such as curbside collection, home pick-up, or a similar method
22 of collection.

23 5. OEMs shall ensure that only collectors and processors that have registered with
24 the department are used to meet the individual recycling goals set forth in sections
25 260.1200 to 260.1234.

26 6. OEMs shall ensure that the processors used to meet the individual recycling goals
27 set forth in sections 260.1200 to 260.1234 shall E-Steward or R-2 certified or the equivalent.

28 7. By August 15, 2017, OEMs shall submit to the department, on forms and in a
29 format prescribed by the department, a report for the period January 1, 2017, to June 30,
30 2017, that contains the total number of CED and EED units.

31 8. No later than April first of program years 2018 and thereafter, CED or EED
32 OEMs shall submit to the department, in the form and manner required by the

33 department, a report that contains the following information for the previous program
34 year:

35 (1) The total number of CED and EED units sold under each of the OEM's brands
36 to individuals, schools, or small businesses within the state;

37 (2) A list of each processor and collector used by the OEM to fulfill the OEM's
38 individual recycling goal set forth in section 260.1204.

39 9. Beginning January 1, 2017, no OEM shall sell a CED or EED in this state unless
40 the OEM is registered with the state as required under sections 260.1200 to 260.1234, has
41 paid the required registration fee, and is otherwise in compliance with the provisions of
42 sections 260.1200 to 260.1234.

43 10. Beginning January 1, 2017, no OEM shall sell a CED or EED in this state unless
44 the OEM's brand name is permanently affixed to, and is readily visible on the CED or
45 EED.

260.1210. 1. Prior to January first of each program year, each processor or
2 collector shall register with the department and submit a registration fee under subsection
3 2 of this section for that program year. Registration shall be on forms and in a format
4 prescribed by the department and shall include, but not be limited to, the address of each
5 location where the processor or collector manages CEDs or EEDs and identification of each
6 location at which the processor or collector accepts CEDs or EEDs from a residence,
7 school, or small business. Processors and collectors shall also register with the department
8 as a hazardous waste generator. Registration shall be on forms and in a format prescribed
9 by the department.

10 2. The annual registration fee for processors and collectors shall be a tiered system.
11 The fees are to be determined during the rule making process. The annual fee cannot
12 exceed five hundred dollars per year including the fee for registering with the department
13 as a hazardous waste generator.

14 3. No person shall act as a processor of CEDs or EEDs for a OEM obligated to meet
15 goals under sections 260.1200 to 260.1234 unless the processor is registered and has paid
16 the registration fee as required under this section.

17 4. Processors shall be E-Steward or R-2 certified or equivalent.

260.1212. 1. Sheltered workshops, as defined in section 178.900, shall be exempt
2 from any fees or certification requirements under sections 260.1200 to 260.1234.

3 2. All sheltered workshops acting as a collector or processor shall have a
4 contractual relationship with a processor registered in accordance with section 260.1210.

260.1214. 1. No later than January first of each program year, collectors that
2 collect or receive CEDs or EEDs on behalf of one or more OEMs and processors shall

3 register with the department as a hazardous waste generator. Registration shall be in the
4 form and manner required by the department and shall include, without limitation, the
5 address of each location where CEDs or EEDs are received and the identification of each
6 location at which the collector accepts CEDs or EEDs from a residence, school, or small
7 business.

8 2. OEMs and processors also acting as collectors shall so indicate on their
9 registration under section 260.1208 or 260.1210 and not register separately as collectors.

10 3. No later than August 15, 2017, collectors shall submit to the department, on
11 forms and in a format prescribed by the department, a report for the period from January
12 1, 2017, to June 30, 2017, that contains the following information: the total number of
13 CEDs and EEDs collected or received for each OEM.

14 4. No later than May first of each program year, collectors shall submit to the
15 department, on forms and in a format prescribed by the department, a report that contains
16 the following information for the previous program year:

17 (1) The total number of CEDs and EEDs collected or received for each OEM
18 during the program year;

19 (2) A list of each processor that received CEDs or EEDs from the collector and the
20 total number of units each processor received;

21 (3) The address of each collector's facility where the CEDs or EEDs were collected
22 or received. Each facility address shall include the solid waste management district in
23 which the facility is located.

24 5. Collectors shall provide no fewer than fifteen days' notice to the department of
25 the time and location of collection events.

26 6. All collection events shall be hosted by or in conjunction with a collector or
27 processor registered with the department.

260.1216. For program year 2019 and later, underserved solid waste management
2 districts shall be solid waste management districts in this state that, during the program
3 year two years prior, were not served by a minimum of one collection site that:

4 (1) Accepted all types of CEDs or EEDs, free of charge; and

5 (2) Was open for a minimum of eight hours on at least one day per month of that
6 program year.

260.1218. 1. The office of administration and the division of purchasing and
2 materials management shall ensure that all bid specifications and contracts for the
3 purchase or lease of CEDs or EEDs by state agencies under a statewide master contract
4 require that the electronic products have a bronze performance tier or higher registration

5 under the Electronic Product Environmental Assessment Tool (EPEAT) operated by the
6 Green Electronics Council or equivalent.

7 2. This section applies to bid specifications issued, and contracts entered into, on
8 or after January 1, 2017.

260.1220. Following the adoption of a federal law or regulation that establishes
2 mandated recycling goals for CEDs or EEDs that equal or exceed the goals set forth in
3 sections 260.1200 to 260.1234, the department shall notify the general assembly of the
4 federal law or regulation and recommend the repeal of sections 260.1200 to 260.1234.

260.1222. 1. Except as otherwise provided in sections 260.1200 to 260.1234, any
2 person who violates any provision of sections 260.1200 to 260.1234 or fails to perform any
3 duty under sections 260.1200 to 260.1234 is liable for a civil penalty not to exceed one
4 thousand dollars for the violation and an additional civil penalty not to exceed one
5 thousand dollars for each day the violation continues and is liable for a civil penalty not
6 to exceed five thousand dollars for a second or subsequent violation and an additional civil
7 penalty not to exceed one thousand dollars for each day the second or subsequent violation
8 continues.

9 2. An OEM that is not registered with the department as required under sections
10 260.1200 to 260.1234, or that has not paid the registration fee as required under sections
11 260.1200 to 260.1234, is liable for a civil penalty not to exceed ten thousand dollars for the
12 violation and an additional civil penalty not to exceed ten thousand dollars for each day
13 the violation continues.

14 3. An OEM in violation of subsection 4 of section 260.1208 in program year 2019
15 or thereafter is liable for a civil penalty equal to the following: in program year 2019 and
16 thereafter, if the total number of CEDs or EEDs recycled or processed for reuse by the
17 OEM is less than sixty percent of the OEM's individual recycling goal set forth in section
18 260.1204, the OEM shall pay a penalty equal to the product of: five dollars per unit,
19 multiplied by the difference between the OEM's individual recycling goal and the total
20 number of CEDs or EEDs recycled or processed by the OEM during the program year or
21 a minimum of one thousand dollars.

22 4. Beginning January 1, 2019, an OEM in violation of section 260.1208 is liable for
23 a civil penalty not to exceed twenty-five thousand dollars per each violation.

24 5. Any processor or collector in violation of section 260.1210 is liable for a civil
25 penalty not to exceed twenty-five thousand dollars for the violation.

26 6. A knowing violation of subsections 1 to 5 of section 260.1228 is a petty offense
27 punishable by a fine of one hundred dollars per each violation except:

28 **(1) On or after January 1, 2019, no person in Missouri shall knowingly dispose of**
29 **a CED or EED, or any of the components or subassemblies thereof, as a solid waste at a**
30 **solid waste transfer station or in a solid waste disposal area;**

31 **(2) Owners or operators of such facilities shall not be found to have knowingly**
32 **disposed of a CED or EED, or any of the components or subassemblies thereof, if the**
33 **facility has implemented mechanisms to avoid such disposal. Such mechanisms shall**
34 **include, at a minimum, posting of signs at the facility or providing written notification to**
35 **the facility's customers concerning the disposal prohibition.**

36 **7. The penalties provided for in sections 260.1200 to 260.1234 may be recovered in**
37 **a civil action brought by the attorney general in the name of the people of the state of**
38 **Missouri.**

39 **8. The attorney general, at the request of the department or on his or her own**
40 **motion, may institute a civil action for an injunction, prohibitory or mandatory, to restrain**
41 **violations of sections 260.1200 to 260.1234 or to require such actions as may be necessary**
42 **to address violations of sections 260.1200 to 260.1234.**

43 **9. The penalties and injunctions provided in sections 260.1200 to 260.1234 are in**
44 **addition to any penalties, injunctions, or other relief provided under any other law.**
45 **Nothing in sections 260.1200 to 260.1234 bars a cause of action by the state for any other**
46 **penalty, injunction, or relief provided by any other law.**

260.1224. 1. The registration fees established in sections 260.1200 to 260.1234 shall
2 **be transmitted to the department in a form and manner as shall be prescribed by the**
3 **department for deposit into the solid waste management fund created in section 260.330.**
4 **The provisions of section 33.080 to the contrary notwithstanding, moneys in the account**
5 **shall not lapse to general revenue at the end of each biennium.**

6 **2. (1) Such registration fees deposited into the solid waste management fund and**
7 **allocated as follows:**

8 **(a) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to**
9 **support the duties of the department under sections 260.1200 to 260.1234; and**

10 **(b) Sixty-one percent of the revenues shall be allocated through grants, upon**
11 **appropriation, to participating solid waste management districts. Revenues to be allocated**
12 **under this subdivision shall be equally divided between participating solid waste**
13 **management districts.**

14 **(2) Any moneys remaining unencumbered in any fiscal year due to insufficient or**
15 **inadequate applications may be reallocated under this subsection in the subsequent fiscal**
16 **year.**

17 **3. Such moneys shall be used by the solid waste management districts for grants or**
18 **programs to support public education about use, recovery, and the effect of improper**
19 **disposal of CEDs or EEDs on the environment, to stimulate recovery and recycling of**
20 **CEDs or EEDs through funding of collection events and its associated costs and grants for**
21 **equipment used in the business of recycling or recovery of CEDs or EEDs. Solid waste**
22 **management districts may, in cooperation with one or more other solid waste management**
23 **districts, use such funds to carry out the funding identified in subsection 3 of section**
24 **260.1224.**

25 **4. The hazardous waste portion of the fees generated shall be deposited into the**
26 **hazardous waste fund as prescribed in subsection 1 of section 260.380.**

260.1226. Nothing in sections 260.1200 to 260.1234 affects the validity or
2 **application of any other law of this state, or regulations adopted thereunder.**

260.1228. 1. Except as may be provided under subsection 6 of this section, and
2 **beginning on or after January 1, 2019, no person shall knowingly cause or allow the mixing**
3 **of a CED or EED with municipal waste that is intended for disposal at a landfill.**

4 **2. Except as may be provided under subsection 6 of this section, and beginning on**
5 **or after January 1, 2017, no person shall knowingly cause or allow the disposal of a CED**
6 **or EED in a sanitary landfill. Owners or operators of such facilities shall not be found to**
7 **have knowingly disposed of a CED or EED, or any of the components or subassemblies**
8 **thereof, if the facility has implemented mechanisms to avoid such disposal. Such**
9 **mechanisms shall include, at a minimum, posting of signs at the facility or providing**
10 **written notification to the facility's customers concerning the disposal prohibition.**

11 **3. Except as may be provided under subsection 6 of this section, and beginning on**
12 **or after January 1, 2017, no person in Missouri shall knowingly dispose of a CED or EED,**
13 **or any of the components or subassemblies thereof, as solid waste at a solid waste transfer**
14 **station or in a solid waste disposal area.**

15 **4. Beginning on or after January 1, 2017, no person shall knowingly cause or allow**
16 **the mixing of a CED or EED with a waste that is intended for disposal by burning or**
17 **incineration.**

18 **5. Beginning on or after January 1, 2017, no person shall knowingly cause or allow**
19 **the burning or incineration of a CED or EED other than at a facility permitted to do so.**

20 **6. (1) Beginning April 1, 2017, but no later than December 31, 2017, the**
21 **department is authorized to review temporary CED and EED landfill ban waiver petitions**
22 **by solid waste management districts and determine whether the respective solid waste**
23 **management district's or action department's jurisdiction may be granted a temporary**
24 **CED and EED landfill ban waiver due to a lack of funds and a lack of collection**

25 **opportunities to collect CEDs or EEDs within the solid waste management district's or**
26 **action department's jurisdiction. If the department grants a waiver under this subsection,**
27 **subsections 1 and 2 of this section shall not apply to CEDs or EEDs that are taken out of**
28 **service from residences, schools, or small businesses within the jurisdiction of the solid**
29 **waste management district or action department receiving the waiver and disposed of**
30 **during the remainder of the program year in which the petition is filed.**

31 **(2) The petition from the solid waste management district or action department**
32 **shall include the following:**

33 **(a) Documentation of the solid waste management district's or action department's**
34 **attempts to gain funding, as well as the total funding obtained, for the collection of CEDs**
35 **or EEDs in its jurisdiction from OEMs or other units of government in the state; and**

36 **(b) An assessment of other collection opportunities in the solid waste management**
37 **district's or action department's jurisdiction demonstrating insufficient capacity for the**
38 **anticipated volume of CEDs or EEDs for the remainder of the program year in which the**
39 **petition is being filed.**

40 **(3) In addition to the criteria listed in subdivision (2) of this subsection, the**
41 **department shall consider the following additional criteria when reviewing a petition:**

42 **(a) Total units of CEDs and EEDs collected in the solid waste management district's**
43 **or action department's jurisdiction during all preceding program years;**

44 **(b) Total units of CEDs and EEDs collected in the solid waste management**
45 **district's or action department's jurisdiction during the year in which the petition is filed;**
46 **and**

47 **(c) The projected difference in CED and EED units between prior program years**
48 **and the year in which the petition is filed.**

49 **(4) Within sixty days after the filing of the petition with the department, the**
50 **department shall determine, based on the criteria in subdivisions (2) and (3) of this**
51 **subsection, whether a temporary CED or EED landfill ban waiver shall be granted to the**
52 **respective solid waste management district or action department for the remainder of the**
53 **program year in which the petition is filed. The department's decision to grant such a**
54 **waiver shall be based upon a showing by clear and convincing evidence that a solid waste**
55 **management district or action department has a lack of funds and its respective**
56 **jurisdiction lacks sufficient collection opportunities to collect CEDs or EEDs. If the**
57 **department denies the petition for a landfill ban waiver, the department's order shall be**
58 **final and immediately appealable to the circuit court having jurisdiction over the**
59 **petitioner.**

60 **(5) Within five days after granting a temporary CED or EED landfill ban waiver,**
61 **the department shall provide written notice of the department's decision. The notice shall**
62 **be provided at least fifteen days prior to the waiver taking effect.**

63 **(6) Any solid waste management district or action department granted a temporary**
64 **CED or EED landfill ban waiver shall, within seven days after receiving the waiver, inform**
65 **all solid waste haulers and landfill operators used by the solid waste management district**
66 **or action department for solid waste disposal that a waiver has been granted for the**
67 **remainder of the program year. The notification shall be provided to the solid waste**
68 **haulers and landfill operators at least fifteen days prior to the waiver taking effect.**

69 **(7) Between April 1, 2019, and December 31, 2020, if a temporary CED or EED**
70 **landfill ban waiver has been granted to a petitioner, no person disposing of a CED or EED**
71 **shall be subject to any enforcement proceeding unless he or she disposes of the CED or**
72 **EED with knowledge that the CED or EED is from a solid waste management district or**
73 **action department that has not received a temporary CED or EED landfill ban waiver.**

260.1230. Financial or proprietary information submitted to the department under
2 **sections 260.1200 to 260.1234 shall not be considered a public record under chapter 610.**

260.1232. All equipment collected under sections 260.1200 to 260.1234 shall be
2 **recycled or reused in a manner that complies with federal, state, and local law.**

260.1234. The department shall promulgate rules to implement the provisions of
2 **sections 260.1200 to 260.1234. Any rule or portion of a rule, as that term is defined in**
3 **section 536.010, that is created under the authority delegated in this section shall become**
4 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
5 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
6 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
7 **the effective date, or to disapprove and annul a rule are subsequently held**
8 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
9 **after August 28, 2015, shall be invalid and void.**

 [260.1050. Sections 260.1050 to 260.1101 may be cited as the
2 "Manufacturer Responsibility and Consumer Convenience Equipment Collection
3 and Recovery Act".]
4

 [260.1053. As used in sections 260.1050 to 260.1101, the following
2 terms mean:

3 (1) "Brand", the name, symbol, logo, trademark, or other information that
4 identifies a product rather than the components of the product;

5 (2) "Computer materials", a desktop or notebook computer and includes
6 a computer monitor or other display device that does not contain a tuner;

- 7 (3) "Consumer", an individual who uses equipment that is purchased
- 8 primarily for personal or home business use;
- 9 (4) "Department", department of natural resources;
- 10 (5) "Equipment", computer materials;
- 11 (6) "Manufacturer", a person:
- 12 (a) Who manufactures or manufactured equipment under a brand that:
- 13 a. The person owns or owned; or
- 14 b. The person is or was licensed to use, other than under a license to
- 15 manufacture equipment for delivery exclusively to or at the order of the licensor;
- 16 (b) Who sells or sold equipment manufactured by others under a brand
- 17 that:
- 18 a. The person owns or owned; or
- 19 b. The person is or was licensed to use, other than under a license to
- 20 manufacture equipment for delivery exclusively to or at the order of the licensor;
- 21 (c) Who manufactures or manufactured equipment without affixing a
- 22 brand;
- 23 (d) Who manufactures or manufactured equipment to which the person
- 24 affixes or affixed a brand that:
- 25 a. The person does not or has not owned; or
- 26 b. The person is not or was not licensed to use; or
- 27 (e) Who imports or imported equipment manufactured outside the United
- 28 States into the United States unless at the time of importation the company or
- 29 licensee that sells or sold the equipment to the importer has or had assets or a
- 30 presence in the United States sufficient to be considered the manufacturer.]
- 31

2 [260.1059. 1. The collection, recycling, and reuse provisions of sections

3 260.1050 to 260.1101 apply to equipment used and returned to the manufacturer

4 by a consumer in this state and do not impose any obligation on an owner or

5 operator of a solid waste facility.

- 5 2. Sections 260.1050 to 260.1101 do not apply to:
- 6 (1) Any computer material that is an electronic device that is a part of a
- 7 motor vehicle or any part of a motor vehicle assembled by, or for, a vehicle
- 8 manufacturer or franchised dealer, including replacement parts for use in a motor
- 9 vehicle;
- 10 (2) Any electronic device that is functionally or physically a part of,
- 11 connected to or integrated within a larger piece of equipment designed and
- 12 intended for use in an industrial, governmental, commercial, research and
- 13 development, or medical setting, including diagnostic, monitoring, or other
- 14 medical products as that term is defined under the federal Food, Drug, and
- 15 Cosmetic Act or equipment used for security, sensing, monitoring, or
- 16 antiterrorism purposes;

- 17 (3) A covered electronic device that is contained within a clothes washer,
- 18 clothes dryer, refrigerator and freezer, microwave oven, conventional oven or
- 19 range, dishwasher, room air conditioner, dehumidifier, or air purifier;
- 20 (4) Telephone of any type, including mobile telephones and wireless
- 21 devices;
- 22 (5) A personal digital assistant or P.D.A.;
- 23 (6) A consumer's lease of equipment or a consumer's use of equipment
- 24 under a lease agreement; or
- 25 (7) The sale or lease of equipment to an entity when the manufacturer and
- 26 the entity enter into a contract that effectively addresses the collection, recycling,
- 27 and reuse of equipment that has reached the end of its useful life.]
- 28

[260.1062. 1. Before a manufacturer may offer equipment for sale in this state, the manufacturer shall:

- 2 (1) Adopt and implement a recovery plan;
- 3 (2) Submit a written copy of the recovery plan to the department; and
- 4 (3) Affix a permanent, readily visible label to the equipment with the
- 5 manufacturer's brand.
- 6
- 7 2. The recovery plan shall enable a consumer to recycle equipment
- 8 without paying a separate fee at the time of recycling and shall include provisions
- 9 for:
- 10 (1) The manufacturer's collection from a consumer of any equipment that
- 11 has reached the end of its useful life and is labeled with the manufacturer's brand;
- 12 and
- 13 (2) Recycling or reuse of equipment collected under subdivision (1) of
- 14 this subsection.
- 15 3. The collection of equipment provided under the recovery plan shall be:
- 16 (1) Reasonably convenient and available to consumers in this state; and
- 17 (2) Designed to meet the collection needs of consumers in this state.
- 18 4. Examples of collection methods that alone or combined meet the
- 19 convenience requirements of this section include a system:
- 20 (1) By which the manufacturer or the manufacturer's designee offers the
- 21 consumer an option for returning equipment by mail at no charge to the
- 22 consumer;
- 23 (2) Using a physical collection site that the manufacturer or the
- 24 manufacturer's designee keeps open and staffed and to which the consumer may
- 25 return equipment; and
- 26 (3) Using a collection event held by the manufacturer or the
- 27 manufacturer's designee at which the consumer may return equipment.
- 28 5. Collection services under this section may use existing collection and
- 29 consolidation infrastructure for handling equipment and may include systems
- 30 jointly managed by a group of manufacturers, electronic recyclers and repair
- 31 shops, recyclers of other commodities, reuse organizations, not-for-profit

32 corporations, retailers, recyclers, and other suitable operations. If a manufacturer
33 or its designee offers a mail-back system as described in subsection 4 of this
34 section, either individually or by working together with a group of manufacturers
35 or by working with others, it shall be deemed to meet the convenience
36 requirements of this section.

37 6. The recovery plan shall include information for the consumer on how
38 and where to return the manufacturer's equipment. The manufacturer:

39 (1) Shall include collection, recycling, and reuse information on the
40 manufacturer's publicly available internet site;

41 (2) Shall provide collection, recycling, and reuse information to the
42 department; and

43 (3) May include collection, recycling, and reuse information in the
44 packaging for or in other materials that accompany the manufacturer's equipment
45 when the equipment is sold.

46 7. Information about collection, recycling, and reuse on a manufacturer's
47 publicly available internet site does not constitute a determination by the
48 department that the manufacturer's recovery plan or actual practices are in
49 compliance with sections 260.1050 to 260.1101 or other state or federal law.

50 8. Each manufacturer shall submit a report to the department not later
51 than January thirty-first of each year that includes:

52 (1) The weight of equipment collected, recycled, and reused during the
53 preceding calendar year; and

54 (2) Documentation certifying that the collection, recycling, and reuse of
55 equipment during the preceding calendar year was conducted in a manner that
56 complies with section 260.1089 regarding sound environmental management.

57 9. If more than one person is a manufacturer of a certain brand of
58 equipment as defined by section 260.1053, any of those persons may assume
59 responsibility for and satisfy the obligations of a manufacturer under sections
60 260.1050 to 260.1101 for that brand. If none of those persons assumes
61 responsibility or satisfies the obligations of a manufacturer for the equipment of
62 that brand, the department may consider any of those persons to be the
63 responsible manufacturer for purposes of sections 260.1050 to 260.1101.

64 10. The obligations under sections 260.1050 to 260.1101 of a
65 manufacturer who manufactures or manufactured equipment, or sells or sold
66 equipment manufactured by others, under a brand that was previously used by a
67 different person in the manufacture of the equipment extends to all equipment
68 bearing that brand regardless of its date of manufacture.]

69
2 [260.1065. 1. A person who is a retailer of equipment shall not sell or
3 offer to sell new equipment in this state unless the equipment is labeled with the
4 manufacturer's label and the manufacturer is included on the department's list of
manufacturers that have recovery plans.

5 2. Retailers can go to the department's internet site as outlined in section
6 260.1071 and view all manufacturers that are listed as having registered a
7 collection program. Covered electronic products from manufacturers on that list
8 may be sold in or into this state.

9 3. A retailer is not required to collect equipment for recycling or reuse
10 under sections 260.1050 to 260.1101.]
11

[260.1068. 1. A manufacturer or retailer of equipment is not liable in any
2 way for information in any form that a consumer leaves on computer materials
3 that are collected, recycled, or reused under sections 260.1050 to 260.1101.

4 2. The consumer is responsible for any information in any form left on
5 the consumer's computer materials that are collected, recycled, or reused.

6 3. Compliance with sections 260.1050 to 260.1101 does not exempt a
7 person from liability under other law.]
8

[260.1071. 1. The department shall educate consumers regarding the
2 collection, recycling, and reuse of equipment.

3 2. The department shall host or designate another person to host an
4 internet site providing consumers with information about the recycling and reuse
5 of equipment, including best management practices and information about and
6 links to information on:

7 (1) Manufacturers' collection, recycling, and reuse programs, including
8 manufacturers' recovery plans; and

9 (2) Equipment collection events, collection sites, and community
10 equipment recycling and reuse programs.]
11

[260.1074. 1. The department may conduct audits and inspections to
2 determine compliance with sections 260.1050 to 260.1101.

3 2. The department and the attorney general, as appropriate, shall enforce
4 sections 260.1050 to 260.1101 and, except as provided by subsections 4 and 5 of
5 this section, take enforcement action against any manufacturer, retailer, or person
6 who recycles or reuses equipment for failure to comply with sections 260.1050
7 to 260.1101.

8 3. The attorney general may file suit to enjoin an activity related to the
9 sale of equipment in violation of sections 260.1050 to 260.1101.

10 4. The department shall issue a written warning notice to a person upon
11 the person's first violation of sections 260.1050 to 260.1101. The person shall
12 comply with sections 260.1050 to 260.1101 not later than the sixtieth day after
13 the date the warning notice is issued.

14 5. A retailer who receives a warning notice from the department that the
15 retailer's inventory violates sections 260.1050 to 260.1101 because it includes
16 equipment from a manufacturer that has not submitted the recovery plan required
17 by section 260.1062 shall bring the inventory into compliance with sections

18 260.1050 to 260.1101 not later than the sixtieth day after the date the warning
19 notice is issued.

20 6. (1) The department may assess a penalty against a manufacturer that
21 does not label its equipment or adopt, implement, or submit a recovery plan as
22 required by section 260.1062. No penalty shall be assessed for a first violation
23 and the amount of the penalty shall not exceed ten thousand dollars for the
24 second violation or twenty-five thousand dollars for each subsequent violation.

25 (2) Any penalty collected under this section shall be credited to the
26 "Equipment Recycling Subaccount", which is hereby created, in the hazardous
27 waste fund. Moneys in the subaccount shall be used for the purpose of
28 administering the provisions of sections 260.1050 to 260.1101. The state
29 treasurer shall be custodian of the subaccount and may approve disbursements
30 from the fund in accordance with sections 30.170 and 30.180. Upon
31 appropriation, money in the subaccount shall be used solely for the
32 administration of sections 260.1050 to 260.1101. Any moneys remaining in the
33 subaccount at the end of the biennium shall revert to the credit of the general
34 revenue fund. The state treasurer shall invest moneys in the fund in the same
35 manner as other funds are invested. Any interest and moneys earned on such
36 investments shall be credited to the subaccount.]

37

2 [260.1077. Financial or proprietary information submitted to the
3 department under sections 260.1050 to 260.1101 shall not be considered a public
4 record under chapter 610.]

4

2 [260.1080. The department shall compile information from
3 manufacturers and issue an electronic report to the committee in each house of
4 the general assembly having primary jurisdiction over environmental matters not
5 later than March first of each year.]

5

2 [260.1083. Sections 260.1050 to 260.1101 do not authorize the
3 department to impose a fee, including a recycling fee or registration fee, on a
4 consumer, manufacturer, retailer, or person who recycles or reuses equipment.]

4

2 [260.1089. 1. All equipment collected under sections 260.1050 to
3 260.1101 shall be recycled or reused in a manner that complies with federal,
4 state, and local law.

4

5 2. The department shall, by rule, adopt as mandatory standards for
6 recycling or reuse of equipment in this state the standards provided by Electronics
7 Recycling Operating Practices as approved by the board of directors of the
8 Institute of Scrap Recycling Industries, Inc., April 25, 2006, or other standards
9 issued from the U.S. Environmental Protection Agency, if available.]

9

2 [260.1092. 1. If federal law establishes a national program for the
3 collection and recycling of equipment and the department determines that the
4 federal law substantially meets the purposes of sections 260.1050 to 260.1101,
5 the department may adopt an agency statement that interprets the federal law as
6 preemptive of sections 260.1050 to 260.1101.

7 2. Sections 260.1050 to 260.1101 shall expire on the date the department
8 issues a statement under this section.]

2 [260.1101. 1. The department shall adopt any rules required to
3 implement sections 260.1050 to 260.1101 not later than July 1, 2009. Any rule
4 or portion of a rule, as that term is defined in section 536.010, that is created
5 under the authority delegated in this section shall become effective only if it
6 complies with and is subject to all of the provisions of chapter 536 and, if
7 applicable, section 536.028. This section and chapter 536 are nonseverable and
8 if any of the powers vested with the general assembly pursuant to chapter 536 to
9 review, to delay the effective date, or to disapprove and annul a rule are
10 subsequently held unconstitutional, then the grant of rulemaking authority and
11 any rule proposed or adopted after August 28, 2008, shall be invalid and void.

12 2. Sections 260.1050 to 260.1101 shall not be enforced before rules
13 developed under this section are promulgated.

14 3. It shall not be considered a violation of sections 260.1050 to 260.1101
for a retailer to sell any inventory accrued before August 28, 2008.]

✓