
SUBSTITUTE HOUSE BILL 2662

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Priest, Pettigrew, Jarrett, Dunshee, Anderson, Kagi, Serben, McCoy, Ericksen, Upthegrove, Tom, Green, Strow, Rodne, Nixon, Chase, Buri, Hunt, Eickmeyer, Darneille, Linville, Morrell, Lantz, Hunter, Appleton, Williams, Hudgins, Wallace, P. Sullivan, Flannigan, Springer, Kenney, O'Brien, Simpson, Clibborn, Sells, Moeller, Ericks, Kilmer and Schual-Berke)

READ FIRST TIME 02/08/06.

1 AN ACT Relating to providing electronic product recycling through
2 manufacturer financed opportunities; amending RCW 42.56.270; adding a
3 new section to chapter 43.19 RCW; adding a new chapter to Title 70 RCW;
4 creating a new section; prescribing penalties; and providing an
5 effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that a convenient,
8 safe, and environmentally sound system for the collection,
9 transportation, and recycling of covered electronic products must be
10 established. The legislature further finds that the system must
11 encourage the design of electronic products that are less toxic and
12 more recyclable. The legislature further finds that the responsibility
13 for this system must be shared among all stakeholders, with
14 manufacturers financing the collection, transportation, and recycling
15 system.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Authority" means the Washington materials management and
2 financing authority created under section 28 of this act.

3 (2) "Authorized party" means a manufacturer who submits an
4 individual independent plan or the entity authorized to submit an
5 independent plan for more than one manufacturer.

6 (3) "Board" means the board of directors of the Washington
7 materials management and financing authority created under section 29
8 of this act.

9 (4) "Collector" means an entity licensed to do business in the
10 state that gathers unwanted covered electronic products from
11 households, small businesses, school districts, small governments, and
12 charities for the purpose of recycling and meets minimum standards that
13 may be developed by the department.

14 (5) "Contract for services" means an instrument executed by the
15 authority and one or more persons or entities that delineates
16 collection, transportation, and recycling services, in whole or in
17 part, that will be provided to the citizens of the state within service
18 areas as described in the approved standard plan.

19 (6) "Covered electronic product" includes a cathode ray tube or
20 flat panel computer monitor having a viewable area greater than four
21 inches when measured diagonally, a desktop computer, a laptop or a
22 portable computer, or a cathode ray tube or flat panel television
23 having a viewable area greater than four inches when measured
24 diagonally that has been used in the state by any household, charity,
25 school district, small business, or small government located in the
26 state. "Covered electronic product" does not include: (a) A motor
27 vehicle or aircraft, or any computer, computer monitor, or television
28 that is contained within, and is not separate from, the motor vehicle
29 or aircraft; (b) monitoring and control instruments or systems; (c)
30 medical devices; (d) products including materials intended for use as
31 ingredients in those products as defined in the federal food, drug, and
32 cosmetic act (21 U.S.C. Sec. 301 et seq.) or the virus-serum-toxin act
33 of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations issued under
34 those acts; (e) equipment used in the delivery of patient care in a
35 health care setting; (f) a computer, computer monitor, or television
36 that is contained within a clothes washer, clothes dryer, refrigerator,
37 refrigerator and freezer, microwave oven, conventional oven or range,

1 dishwasher, room air conditioner, dehumidifier, or air purifier; or (g)
2 hand-held portable voice or data devices used for commercial mobile
3 services as defined in 47 U.S.C. Sec. 332 (d)(1).

4 (7) "Covered entity" means any household, charity, school district,
5 small business, or small government located in Washington state.

6 (8) "Curbside service" means a collection service providing
7 regularly scheduled pickup of covered electronic products from
8 households or other covered entities in quantities similar to
9 households.

10 (9) "Department" means the department of ecology.

11 (10) "Electronic product" includes a cathode ray tube or flat panel
12 computer monitor having a viewable area greater than four inches when
13 measured diagonally; a desktop computer; a laptop or a portable
14 computer; or a cathode ray tube or flat screen television having a
15 viewable area greater than four inches when measured diagonally.

16 (11) "Equivalent share" means the weight in pounds of covered
17 electronic products for which an individual manufacturer is responsible
18 under this chapter as determined by the department under section 20 of
19 this act.

20 (12) "Household" means a single detached dwelling unit or a single
21 unit of a multiple dwelling unit and appurtenant structures.

22 (13) "Independent plan" means a plan for the collection,
23 transportation, and recycling of unwanted covered electronic products
24 that is developed, implemented, and financed by an individual
25 manufacturer or by an authorized party.

26 (14) "Manufacturer" means any person, in business or no longer in
27 business but having a successor in interest, who, irrespective of the
28 selling technique used, including by means of distance or remote sale:

29 (a) Manufactures or has manufactured a covered electronic product
30 under its own brand names for sale in or into this state;

31 (b) Assembles or has assembled a covered electronic product that
32 uses parts manufactured by others for sale in or into this state under
33 the assembler's brand names;

34 (c) Resells or has resold in or into this state under its own brand
35 names a covered electronic product produced by other suppliers,
36 including retail establishments that sell covered electronic products
37 under their own brand names;

1 (d) Imports or has imported a covered electronic product into the
2 United States that is sold in or into this state. However, if a
3 company from whom an importer purchases or has purchased the
4 merchandise performs activities conducted under the standards
5 established for interstate commerce under the commerce clause of the
6 United States Constitution, that company is deemed to be the
7 manufacturer; or

8 (e) Manufactures or manufactured a cobranded product for sale in or
9 into this state that carries the name of both the manufacturer and a
10 retailer.

11 (15) "New entrant" means: (a) A manufacturer of televisions that
12 have been sold in the state for less than ten years; or (b) a
13 manufacturer of desktop computers, laptop and portable computers, or
14 computer monitors that have been sold in the state for less than five
15 years. However, a manufacturer of both televisions and computers or a
16 manufacturer of both televisions and computer monitors that is deemed
17 a new entrant under either only (a) or (b) of this subsection is not
18 considered a new entrant for purposes of this chapter.

19 (16) "Orphan product" means a covered electronic product that lacks
20 a manufacturer's brand or for which the manufacturer is no longer in
21 business and has no successor in interest.

22 (17) "Plan's equivalent share" means the weight in pounds of
23 covered electronic products for which a plan is responsible. A plan's
24 equivalent share is equal to the sum of the equivalent shares of each
25 manufacturer participating in that plan.

26 (18) "Plan's return share" means the sum of the return shares of
27 each manufacturer participating in that plan.

28 (19) "Premium service" means services such as at-location system
29 upgrade services provided to covered entities and at-home pickup
30 services offered to households. "Premium service" does not include
31 curbside service.

32 (20) "Processor" means an entity engaged in disassembling,
33 dismantling, or shredding electronic products to recover materials
34 contained in the electronic products and prepare those materials for
35 refining or reuse in new products in accordance with processing
36 standards established by this chapter and by the department. A
37 processor may also salvage parts to be used in new products.

1 (21) "Product type" means one of the following categories:
2 Computer monitors; desktop computers; laptop and portable computers;
3 and televisions.

4 (22) "Program" means the collection, transportation, and recycling
5 activities conducted to implement an independent plan or the standard
6 plan.

7 (23) "Program year" means each full calendar year after the program
8 has been initiated.

9 (24) "Recycling" means transforming or remanufacturing waste
10 materials into usable or marketable materials for use other than
11 landfill disposal or incineration. "Recycling" does not include energy
12 recovery or energy generation by means of combusting electronic waste
13 with or without other waste. Smelting of electronic wastes to recover
14 metals for reuse in conformance with all applicable laws and
15 regulations is not considered disposal or energy recovery.

16 (25) "Retailer" means a person who offers covered electronic
17 products for sale at retail through any means including, but not
18 limited to, remote offerings such as sales outlets, catalogs, or the
19 internet, but does not include a sale that is a wholesale transaction
20 with a distributor or a retailer.

21 (26) "Return share" means the percentage of covered electronic
22 products by weight identified for an individual manufacturer, as
23 determined by the department under section 19 of this act.

24 (27) "Reuse" means any operation by which an electronic product or
25 a component of a covered electronic product changes ownership and is
26 used for the same purpose for which it was originally purchased.

27 (28) "Small business" means a business employing less than fifty
28 people.

29 (29) "Small government" means a city in the state with a population
30 less than fifty thousand, a county in the state with a population less
31 than one hundred twenty-five thousand, and special purpose districts in
32 the state.

33 (30) "Standard plan" means the plan for the collection,
34 transportation, and recycling of unwanted covered electronic products
35 developed, implemented, and financed by the authority on behalf of
36 manufacturers participating in the authority.

37 (31) "Transporter" means an entity that transports covered

1 electronic products from collection sites or services to processors or
2 other locations for the purpose of recycling, but does not include any
3 entity or person that hauls their own unwanted electronic products.

4 (32) "Unwanted electronic product" means a covered electronic
5 product that has been discarded or is intended to be discarded by its
6 owner.

7 (33) "White box manufacturer" means a person who manufactured
8 unbranded covered electronic products offered for sale in the state
9 within ten years prior to a program year for televisions or within five
10 years prior to a program year for desktop computers, laptop or portable
11 computers, or computer monitors.

12 NEW SECTION. **Sec. 3.** (1) A manufacturer must participate in an
13 independent plan or the standard plan to implement and finance the
14 collection, transportation, and recycling of covered electronic
15 products.

16 (2) An independent plan or the standard plan must be implemented
17 and fully operational no later than January 1, 2009.

18 (3) The manufacturers participating in an approved plan are
19 responsible for covering all administrative and operational costs
20 associated with the collection, transportation, and recycling of their
21 plan's equivalent share of covered electronic products. If costs are
22 passed on to consumers, it must be done without any fees at the time
23 the unwanted electronic product is delivered or collected for
24 recycling. However, this does not prohibit collectors providing
25 premium or curbside services from charging customers a fee for the
26 additional collection cost of providing this service, when funding for
27 collection provided by an independent plan or the standard plan does
28 not fully cover the cost of that service.

29 (4) Nothing in this chapter changes or limits the authority of the
30 Washington utilities and transportation commission to regulate
31 collection of solid waste in the state of Washington, including
32 curbside collection of residential recyclable materials, nor does this
33 chapter change or limit the authority of a city or town to provide such
34 service itself or by contract pursuant to RCW 81.77.020.

35 (5) Manufacturers are encouraged to collaborate with electronic
36 product retailers, certificated waste haulers, processors, recyclers,

1 charities, and local governments within the state in the development
2 and implementation of their plans.

3 NEW SECTION. **Sec. 4.** (1) By January 1, 2007, and annually
4 thereafter, each manufacturer must register with the department.

5 (2) A manufacturer must submit to the department with each
6 registration or annual renewal a fee to cover the administrative costs
7 of this chapter as determined by the department under section 23 of
8 this act.

9 (3) The department shall review a registration and notify the
10 manufacturer if their registration does not meet the requirements of
11 this section. Within thirty days of receipt of such a notification
12 from the department, the manufacturer must file with the department a
13 revised registration addressing the requirements noted by the
14 department.

15 (4) The registration may only include the following information:

16 (a) The name and contact information of the manufacturer submitting
17 the registration;

18 (b) The manufacturer's brand names of covered electronic products,
19 including all brand names sold in the state in the past, all brand
20 names currently being sold in the state, and all brand names for which
21 the manufacturer has legal responsibility under section 10 of this act;

22 (c) The method or methods of sale used in the state; and

23 (d) Whether the registrant will be participating in the standard
24 plan or submitting an independent plan to the department for approval.

25 (5) The registrant shall submit any changes to the information
26 provided in the registration to the department within fourteen days of
27 such change.

28 (6) The department shall determine, using all reasonable means,
29 manufacturers that are in business or that are no longer in business
30 but that have a successor in interest by examining best available
31 return share data and other pertinent data. The department shall
32 notify manufacturers that have been identified and for whom an address
33 has been found of the requirements of this chapter, including
34 registration and plan requirements under this section and section 5 of
35 this act.

1 NEW SECTION. **Sec. 5.** (1) A manufacturer must participate in the
2 standard plan administered by the authority, unless the manufacturer
3 obtains department approval for an independent plan for the collection,
4 transportation, and recycling of unwanted electronic products.

5 (2) An independent plan may be submitted by an individual
6 manufacturer or by a group of manufacturers, provided that:

7 (a) Each independent plan represents at least a five percent return
8 share of covered electronic products; and

9 (b) No manufacturer may participate in an independent plan if they
10 are a new entrant or a white box manufacturer.

11 (3) An individual manufacturer submitting an independent plan to
12 the department is responsible for collecting, transporting, and
13 recycling its equivalent share of covered electronic products.

14 (4)(a) Manufacturers collectively submitting an independent plan
15 are responsible for collecting, transporting, and recycling the sum of
16 the equivalent shares of each participating manufacturer.

17 (b) Each group of manufacturers submitting an independent plan must
18 designate a party authorized to file the plan with the department on
19 their behalf. A letter of certification from each of the manufacturers
20 designating the authorized party must be submitted to the department
21 together with the plan.

22 (5) Each manufacturer in the standard plan or in an independent
23 plan retains responsibility and liability under this chapter in the
24 event that the plan fails to meet the manufacturer's obligations under
25 this chapter.

26 NEW SECTION. **Sec. 6.** (1) All initial independent plans and the
27 initial standard plan required under section 5 of this act must be
28 submitted to the department by February 1, 2008. The department shall
29 review each independent plan and the standard plan.

30 (2) The authority submitting the standard plan and each authorized
31 party submitting an independent plan to the department must pay a fee
32 to the department to cover the costs of administering and implementing
33 this chapter. The department shall set the fees as described under
34 section 23 of this act.

35 (3) The fees in subsection (2) of this section apply to the initial
36 plan submission and plan updates and revisions required in section 7 of
37 this act.

1 (4) Within ninety days after receipt of a plan, the department
2 shall determine whether the plan complies with this chapter. If the
3 plan is approved, the department shall send a letter of approval. If
4 a plan is rejected, the department shall provide the reasons for
5 rejecting the plan to the authority or authorized party. The authority
6 or authorized party has sixty days after receipt of the letter of
7 disapproval to submit a new plan.

8 (5) An independent plan and the standard plan must contain the
9 following elements:

10 (a) Contact information for the authority or authorized party and
11 a comprehensive list of all manufacturers participating in the plan and
12 their contact information;

13 (b) A description of the collection, transportation, and recycling
14 systems and service providers used, including a description of how the
15 authority or authorized party will:

16 (i) Seek to use businesses within the state, including retailers,
17 charities, processors, and collection and transportation services; and

18 (ii) Fairly compensate collectors for providing collection
19 services;

20 (c) The method or methods for the reasonably convenient collection
21 of all product types of covered electronic products in rural and urban
22 areas throughout the state, including how the plan will provide for
23 collection services in each county of the state and for a minimum of
24 one collection site or alternate collection service for each city or
25 town with a population greater than ten thousand. A collection site
26 for a county may be the same as a collection site for a city or town in
27 the county;

28 (d) A description of how the plan will provide service to small
29 businesses, small governments, charities, and school districts in
30 Washington state;

31 (e) The processes and methods used to recycle covered electronic
32 products including a description of the processing that will be used
33 and the facility location;

34 (f) Documentation of audits of each processor used in the plan and
35 compliance with processing standards established under section 25 of
36 this act;

37 (g) A description of the accounting and reporting systems that will
38 be employed to track progress toward the plan's equivalent share;

1 (h) A timeline describing startup, implementation, and progress
2 towards milestones with anticipated results;

3 (i) The public information campaign to inform consumers about how
4 to recycle their covered electronic products at the end of the
5 product's life.

6 (6) The standard plan shall address how it will incorporate and
7 fairly compensate registered collectors providing curbside or premium
8 services such that they are not compensated at a lower rate for
9 collection costs than the compensation offered other collectors
10 providing drop-off collection sites in that geographic area.

11 (7) All transporters and collectors used to fulfill the
12 requirements of this section must be registered as described in section
13 24 of this act.

14 NEW SECTION. **Sec. 7.** (1) An independent plan and the standard
15 plan must be updated at least every five years and as required in (a)
16 and (b) of this subsection.

17 (a) If the program fails to provide service in each county in the
18 state or meet other plan requirements, the authority or authorized
19 party shall submit to the department within sixty days of failing to
20 provide service an updated plan addressing how the program will be
21 adjusted to meet program geographic coverage and collection service
22 requirements.

23 (b) The authority or authorized party shall notify the department
24 of any modification to the plan. If the department determines that the
25 authority or authorized party has significantly modified the program
26 described in the plan, the authority or authorized party shall submit
27 a revised plan describing the changes to the department within sixty
28 days of notification by the department.

29 (2) Within sixty days after receipt of a revised plan, the
30 department shall determine whether the revised plan complies with this
31 chapter. If the revised plan is approved, the department shall send a
32 letter of approval. If the revised plan is rejected, the department
33 shall provide the reasons for rejecting the plan to the authority or
34 authorized party. The authority or authorized party has sixty days
35 after receipt of the letter of disapproval to submit a new plan
36 revision.

1 (3) The authority or authorized parties may buy and sell tonnage of
2 covered electronic products with other plans without submitting a plan
3 revision for review.

4 NEW SECTION. **Sec. 8.** (1) A manufacturer participating in an
5 independent plan may join the standard plan by notifying the authority
6 and the department of its intention at least five months prior to the
7 start of the next program year.

8 (2) Manufacturers may not change from one plan to another plan
9 during a program year.

10 (3) A manufacturer participating in the standard plan wishing to
11 implement or participate in an independent plan may do so by complying
12 with rules adopted by the department under section 23 of this act.

13 NEW SECTION. **Sec. 9.** (1) A program must provide collection
14 services for covered electronic products of all product types that are
15 reasonably convenient and available to all citizens of the state
16 residing within its geographic boundaries, including both rural and
17 urban areas. Each program must provide collection service in every
18 county of the state that is adequate to meet reasonable local community
19 standards. A program may provide collection services jointly with
20 another plan or plans.

21 (a) For any city or town with a population of greater than ten
22 thousand, each program shall provide a minimum of one collection site
23 or alternate collection service described in subsection (3) of this
24 section or a combination of sites and alternate service that together
25 provide at least one collection opportunity for all product types. A
26 collection site for a county may be the same as a collection site for
27 a city or town in the county.

28 (b) Collection sites may include electronics recyclers and repair
29 shops, recyclers of other commodities, reuse organizations, charities,
30 retailers, government recycling sites, or other suitable locations.

31 (c) Collection sites must be staffed, open to the public at a
32 frequency adequate to meet the needs of the area being served, and on
33 an on-going basis.

34 (2) A program may limit the number of covered electronic products
35 or covered electronic products by product type accepted per customer

1 per day or per delivery at a collection site or service. All covered
2 entities may use a collection site as long as the covered entities
3 adhere to any restrictions established in the plans.

4 (3) A program may provide collection services in forms different
5 than collection sites, such as curbside services, if those alternate
6 services provide equal or better convenience to citizens and equal or
7 increased recovery of unwanted covered electronic products.

8 (4) For rural areas without commercial centers or areas with widely
9 dispersed population, a program may provide collection at the nearest
10 commercial centers or solid waste sites, collection events, mail-back
11 systems, or a combination of these options.

12 (5) For small businesses, small governments, charities, and school
13 districts that may have large quantities of covered electronic products
14 that cannot be handled at collection sites or curbside services, a
15 program may provide alternate services. At a minimum, a program must
16 provide for processing of these large quantities of covered electronic
17 products at no charge to the small businesses, small governments,
18 charities, and school districts.

19 NEW SECTION. **Sec. 10.** Any person acquiring a manufacturer, or who
20 has acquired a manufacturer, shall have all responsibility for the
21 acquired company's covered electronic products, including covered
22 electronic products manufactured prior to the effective date of this
23 section, unless that responsibility remains with another entity per the
24 purchase agreement and the acquiring manufacturer provides the
25 department with a letter from the other entity accepting responsibility
26 for the covered electronic products. Cobranding manufacturers may
27 negotiate with retailers for responsibility for those products and must
28 notify the department of the results of their negotiations.

29 NEW SECTION. **Sec. 11.** (1) An independent plan and the standard
30 plan must implement and finance an auditable, statistically significant
31 sampling of covered electronic products entering its program every
32 program year. The information collected must include a list of the
33 brand names of covered electronic products by product type, the number
34 of covered electronic products by product type, the weight of covered
35 electronic products that are identified for each brand name or that

1 lack a manufacturer's brand, the total weight of the sample by product
2 type, and any additional information needed to assign return share.

3 (2) The sampling must be conducted in the presence of the
4 department or a third-party organization approved by the department.
5 The department may, at its discretion, audit the methodology and the
6 results.

7 (3) After the fifth program year, the department may reassess the
8 sampling required in this section. The department may adjust the
9 frequency at which manufacturers must implement the sampling or may
10 adjust the frequency at which manufacturers must provide certain
11 information from the sampling. Prior to making any changes, the
12 department shall notify the public, including all registered
13 manufacturers, and provide a comment period. The department shall
14 notify all registered manufacturers of any such changes.

15 NEW SECTION. **Sec. 12.** (1) An independent plan and the standard
16 plan must inform covered entities about where and how to reuse and
17 recycle their covered electronic products at the end of the product's
18 life, including providing a web site or a toll-free telephone number
19 that gives information about the recycling program in sufficient detail
20 to educate covered entities regarding how to return their covered
21 electronic products for recycling.

22 (2) The department shall promote covered electronic product
23 recycling by:

24 (a) Posting information describing where to recycle unwanted
25 covered electronic products on its web site;

26 (b) Providing information about recycling covered electronic
27 products through a toll-free telephone service; and

28 (c) Developing and providing artwork for use in flyers and signage
29 to retailers upon request.

30 (3) Local governments shall promote covered electronic product
31 recycling, including listings of local collection sites and services,
32 through existing educational methods typically used by each local
33 government.

34 (4) A retailer who sells new covered electronic products shall
35 provide information to consumers describing where and how to recycle
36 covered electronic products and opportunities and locations for the
37 convenient collection or return of the products. This requirement can

1 be fulfilled by providing the department's toll-free telephone number
2 and web site. Remote sellers may include the information in a visible
3 location on their web site as fulfillment of this requirement.

4 (5) Manufacturers, state government, local governments, retailers,
5 and collection sites and services shall collaborate in the development
6 and implementation of the public information campaign.

7 NEW SECTION. **Sec. 13.** (1) The electronic products recycling
8 account is created in the custody of the state treasurer. All payments
9 resulting from plans not reaching their equivalent share, as described
10 in section 22 of this act, shall be deposited into the account. Any
11 moneys collected for manufacturer registration fees, fees associated
12 with reviewing and approving plans and plan revisions, and penalties
13 levied under this chapter shall be deposited into the account.

14 (2) Only the director of the department or the director's designee
15 may authorize expenditures from the account. The account is subject to
16 allotment procedures under chapter 43.88 RCW, but an appropriation is
17 not required for expenditures.

18 (3) Moneys in the account may be used solely by the department for
19 the purposes of fulfilling department responsibilities specified in
20 this chapter and for expenditures to the authority and authorized
21 parties resulting from plans exceeding their equivalent share, as
22 described in section 22 of this act. Funds in the account may not be
23 diverted for any purpose or activity other than those specified in this
24 section.

25 NEW SECTION. **Sec. 14.** (1) By March 1st of the second program year
26 and each program year thereafter, the authority and each authorized
27 party shall file with the department an annual report for the preceding
28 program year.

29 (2) The annual report must include the following information:

30 (a) The total weight in pounds of covered electronic products
31 collected and recycled, by county, during the preceding program year
32 including documentation verifying collection and processing of that
33 material. The total weight in pounds includes orphan products. The
34 report must also indicate and document the weight in pounds received
35 from each nonprofit charitable organization primarily engaged in the
36 business of reuse and resale used by the plan. The report must

1 document the weight in pounds that were received in large quantities
2 from small businesses, small governments, charities and school
3 districts as described in section 9(5) of this act;

4 (b) The collection services provided in each county and for each
5 city with a population over ten thousand including a list of all
6 collection sites and services operating in the state in the prior
7 program year and the parties who operated them;

8 (c) A list of processors used, the weight of covered electronic
9 products processed by each processor, and a description of the
10 processes and methods used to recycle the covered electronic products
11 including a description of the processing and facility locations. The
12 report must also include a complete list of all subcontractors who
13 further processed all materials listed in section 25(1)(b) of this act,
14 including facility locations;

15 (d) For each processor used by the plan, documentation of
16 compliance with processing standards, including documentation of
17 audits, as established under section 25 of this act;

18 (e) Educational and promotional efforts that were undertaken;

19 (f) The results of sampling and sorting as required in section 11
20 of this act, including a list of the brand names of covered electronic
21 products by product type, the number of covered electronic products by
22 product type, the weight of covered electronic products that are
23 identified for each brand name or that lack a manufacturer's brand, and
24 the total weight of the sample by product type;

25 (g) Any other information deemed necessary by the department.

26 (3) The authority shall also include in its annual report to the
27 department the list of manufacturers that are participating in the
28 standard plan and that have fully paid their equivalent share to the
29 authority in the preceding year as required under section 22 of this
30 act.

31 (4) The department shall review each report within ninety days of
32 its submission and shall notify the authority or authorized party of
33 any need for additional information or documentation, or any deficiency
34 in its program.

35 (5) All reports submitted to the department must be available to
36 the general public through the internet. Proprietary information
37 submitted to the department under this chapter is exempt from public
38 disclosure under RCW 42.56.270.

1 NEW SECTION. **Sec. 15.** Nonprofit charitable 501(c)3 organizations
2 that are primarily engaged in the business of reuse and resale and that
3 are used by a plan to collect covered electronic products shall file a
4 report with the department by March 1st of the second program year and
5 each program year thereafter. The report must indicate and document
6 the weight of covered electronic products sent for recycling during the
7 previous program year attributed to each plan that the charitable
8 organization is participating in.

9 NEW SECTION. **Sec. 16.** (1) Beginning January 1, 2007, no person
10 may sell or offer for sale an electronic product to any person in the
11 state unless the electronic product is labeled with the manufacturer's
12 brand. The label must be permanently affixed and readily visible.

13 (2) In-state retailers in possession of unlabeled products on
14 January 1, 2007, may exhaust their stock through sales to the public.

15 NEW SECTION. **Sec. 17.** No person may sell or offer for sale a
16 covered electronic product to any person in this state unless the
17 manufacturer of the covered electronic product has filed a registration
18 with the department under section 4 of this act and is participating in
19 an approved plan under section 5 of this act. A person that sells or
20 offers for sale a covered electronic product in the state shall consult
21 the department's web site for lists of manufacturers with registrations
22 and approved plans prior to selling a covered electronic product in the
23 state. A person is considered to have complied with this section if on
24 the date the product was ordered from the manufacturer or its agent,
25 the manufacturer was listed as having registered and having an approved
26 plan on the department's web site.

27 NEW SECTION. **Sec. 18.** (1) The department shall maintain on its
28 web site the following information:

29 (a) The names of the manufacturers and the manufacturer's brands
30 that are registered with the department under section 3 of this act;

31 (b) The names of the manufacturers and the manufacturer's brands
32 that are participating in an approved plan under section 5 of this act;

33 (c) The names and addresses of the collectors and transporters that
34 are listed in registrations filed with the department under section 24
35 of this act;

1 (d) The names and addresses of the processors used to fulfill the
2 requirements of the plans;

3 (e) Return and equivalent shares for all manufacturers.

4 (2) The department shall update this web site information promptly
5 upon receipt of a registration or a report.

6 NEW SECTION. **Sec. 19.** (1) The department shall determine the
7 return share for each manufacturer participating in the standard plan
8 or an independent plan by dividing the weight of covered electronic
9 products identified for each manufacturer by the total weight of
10 covered electronic products identified for all manufacturers
11 participating in the standard plan or an independent plan, then
12 multiplying the quotient by one hundred.

13 (2) For the first program year, the department shall determine the
14 return share for such manufacturers using all reasonable means and
15 based on best available information regarding return share data from
16 other states and other pertinent data.

17 (3) For the second and each subsequent program year, the department
18 shall determine the return share for such manufacturers using all
19 reasonable means and based on the most recent sampling of covered
20 electronic products conducted in the state under section 11 of this
21 act.

22 NEW SECTION. **Sec. 20.** (1) The department shall determine the
23 total equivalent share for each manufacturer participating in the
24 standard plan or an independent plan by dividing the return share
25 percentage for each manufacturer by one hundred, then multiplying the
26 quotient by the total weight in pounds of covered electronic products
27 collected for that program year, allowing as needed for the additional
28 credit authorized in subsection (3) of this section.

29 (2)(a) By June 1st of each program year, the department shall
30 notify each manufacturer of the manufacturer's equivalent share of
31 covered electronic products to be applied to the previous program year.
32 The department shall also notify each manufacturer of how its
33 equivalent share was determined.

34 (b) By June 1st of each program year, the department shall bill any
35 authorized party or authority that has not attained its equivalent

1 share as determined under section 22 of this act. The authorized party
2 or authority shall remit payment to the department within sixty days
3 from the billing date.

4 (c) By September 1st of each program year, the department shall pay
5 any authorized party or authority that exceeded its equivalent share.

6 (3) Plans that utilize the collection services of nonprofit
7 charitable 501(c)3 organizations that are primarily engaged in the
8 business of reuse and resale must be given an additional five percent
9 credit to be applied toward a plan's equivalent share for pounds that
10 are received for recycling from those organizations. The department
11 may adjust the percentage of credit annually.

12 NEW SECTION. **Sec. 21.** (1) By June 1, 2007, the department shall
13 notify each manufacturer of its preliminary return share of covered
14 electronic products for the first program year.

15 (2) Preliminary return share of covered electronic products must be
16 announced annually by June 1st of each program year for the next
17 program year.

18 (3) Manufacturers may challenge the preliminary return share by
19 written petition to the department. The petition must be received by
20 the department within thirty days of the date of publication of the
21 preliminary return shares.

22 (4) The petition must contain a detailed explanation of the grounds
23 for the challenge, an alternative calculation, and the basis for such
24 a calculation, documentary evidence supporting the challenge, and
25 complete contact information for requests for additional information or
26 clarification.

27 (5) Sixty days after the publication of the preliminary return
28 share, the department shall make a final decision on return share,
29 having fully taken into consideration any and all challenges to its
30 preliminary calculations.

31 (6) A written record of challenges received and a summary of the
32 bases for the challenges, as well as the department's response, must be
33 published at the same time as the publication of the final return
34 share.

35 (7) By August 1, 2007, the department shall publish the final
36 return shares for the first program year. By August 1st of each

1 program year, the department shall publish the final return shares for
2 use in the coming program year.

3 NEW SECTION. **Sec. 22.** (1) For an independent plan and the
4 standard plan, if the total weight in pounds of covered electronic
5 products collected during a program year is less than the plan's
6 equivalent share of covered electronic products for that year, then the
7 authority or authorized party shall submit to the department a payment
8 equal to the weight in pounds of the deficit multiplied by the
9 reasonable collection, transportation, and recycling cost for covered
10 electronic products and the administrative fee. Moneys collected by
11 the department must be deposited in the electronic products recycling
12 account.

13 (2) For an independent plan and the standard plan, if the total
14 weight in pounds of covered electronic products collected during a
15 program year is more than the plan's equivalent share of covered
16 electronic products for that year, then the department shall submit to
17 the authority or authorized party, a payment equal to the weight in
18 pounds of the surplus multiplied by the reasonable collection,
19 transportation, and recycling cost for covered electronic products.

20 (3) For purposes of this section, the initial reasonable
21 collection, transportation, and recycling cost for covered electronic
22 products is forty-five cents per pound and the administrative fee is
23 five cents per pound.

24 (4) The department may annually adjust the reasonable collection,
25 transportation, and recycling cost for covered electronic products and
26 the administrative fee described in this section. Prior to making any
27 changes in the fees described in this section, the department shall
28 notify the public, including all registered manufacturers, and provide
29 a comment period. The department shall notify all registered
30 manufacturers of any changes to the reasonable collection,
31 transportation, and recycling cost or the administrative fee by January
32 1st of the program year in which the change is to take place.

33 NEW SECTION. **Sec. 23.** (1) The department shall adopt rules to
34 determine the process for manufacturers to change plans under section
35 8 of this act.

1 (2) The department shall establish annual registration and plan
2 review fees for administering this chapter. An initial fee schedule
3 must be established by rule and be adjusted no more often than once
4 every two years. All fees charged must be based on factors relating to
5 administering this chapter and be based on a sliding scale that is
6 representative of annual sales of covered electronic products in the
7 state. Fees must be established in amounts to fully recover and not to
8 exceed expenses incurred by the department to implement this chapter.

9 (3) The department shall establish an annual process for local
10 governments and local communities to report their satisfaction with the
11 services provided by plans under this chapter. This information must
12 be used by the department in reviewing plan updates and revisions.

13 (4) The department may adopt rules as necessary for the purpose of
14 implementing, administering, and enforcing this chapter.

15 NEW SECTION. **Sec. 24.** Each collector and transporter of covered
16 electronic products in the state must register annually with the
17 department. The registration must include all identification
18 requirements for licensure in the state and the geographic area of the
19 state that they serve. The department shall develop a single form for
20 registration of both collectors and transporters.

21 NEW SECTION. **Sec. 25.** (1)(a) The authority and each authorized
22 party shall ensure that each processor used directly by the authority
23 or the authorized party to fulfill the requirements of their respective
24 standard plan or independent plan has provided the authority or the
25 authorized party a written statement that the processor will comply
26 with the requirements of this section.

27 (b) The international export of any unwanted covered electronic
28 products or electronic components or electronic scrap derived from such
29 products destined for disposal or recycling that are capable of
30 leaching lead, cadmium, mercury, hexavalent chromium, or selenium or
31 selenium compounds in concentrations above the limits listed in 40
32 C.F.R. Sec. 261.24 as of the effective date of this act shall be
33 prohibited except for exports to:

34 (i) Countries that are members of the organization for economic
35 cooperation and development;

36 (ii) Countries that are members of the European community; or

1 (iii) Countries that have entered into an agreement with the United
2 States that allows for such exports.

3 (c) Any unwanted electronic products or electronic components
4 derived from such products that are capable of leaching lead, cadmium,
5 mercury, hexavalent chromium, or selenium or selenium compounds in
6 concentrations exceeding the levels established in 40 C.F.R. Sec.
7 261.24 as of the effective date of this act and exported to countries
8 that are not members of the organization for economic cooperation and
9 development or the European community or with whom the United States
10 has not entered into an agreement for such export for reuse, must be
11 tested and labeled as fully functional or needing only repairs that do
12 not result in the replacement of components capable of leaching these
13 substances in concentrations exceeding the levels established in 40
14 C.F.R. Sec. 261.24 as of the effective date of this act.

15 (d) The department shall establish rules to implement this section,
16 including any requirements necessary to ensure that full compliance is
17 adequately documented.

18 (2) The department shall establish by rule performance standards
19 for environmentally sound management for processors directly used to
20 fulfill the requirements of an independent plan or the standard plan.
21 Performance standards may include financial assurance to ensure proper
22 closure of facilities in the state consistent with environmental
23 standards.

24 (3) The department shall establish by rule guidelines regarding
25 nonrecycled residual that may be properly disposed after covered
26 electronic products have been processed.

27 (4) The department may audit processors that are utilized to
28 fulfill the requirements of an independent plan or the standard plan.

29 (5) No plan or program required under this chapter may include the
30 use of federal or state prison labor for processing.

31 NEW SECTION. **Sec. 26.** (1) The department shall send a written
32 warning to a manufacturer that does not have an approved plan or is not
33 participating in an approved plan as required under section 5 of this
34 act. The written warning must inform the manufacturer that it must
35 participate in an approved plan within ninety days of the notice. Any
36 infraction after the initial written warning shall be assessed a

1 penalty of up to ten thousand dollars upon the first citation of
2 infraction.

3 (2) If the authority or any authorized party fails to implement
4 their approved plan, the department must assess a penalty of up to five
5 thousand dollars upon first citation of infraction along with
6 notification that the authority or authorized party must implement its
7 plan within ninety days of the citation. After ninety days, the
8 authority or any authorized party failing to implement their approved
9 plan must be assessed a penalty of up to ten thousand dollars upon the
10 second and each subsequent citation of infraction.

11 (3) Any person that does not comply with manufacturer registration
12 requirements under section 4 of this act, education and outreach
13 requirements under section 12 of this act, reporting requirements under
14 section 14 of this act, labeling requirements under section 16 of this
15 act, retailer responsibility requirements under section 17 of this act,
16 collector or transporter registration requirements under section 24 of
17 this act, or processing standards under section 25 of this act, must
18 first receive a written warning including a copy of the requirements
19 under this chapter and ninety days to correct the violation. After
20 ninety days, a person must be assessed a penalty of up to one thousand
21 dollars upon first citation of infraction and up to two thousand
22 dollars upon the second and each subsequent citation of infraction.

23 (4) All penalties levied under this section must be deposited into
24 the electronic products recycling account created under section 13 of
25 this act.

26 (5) The department shall enforce this section.

27 NEW SECTION. **Sec. 27.** By December 31, 2012, the department shall
28 provide a report to the legislature that includes the following
29 information:

30 (1) For each of the preceding program years, the weight of covered
31 electronic products recycled in the state by plan, by county, and in
32 total;

33 (2) The performance of each plan in meeting its equivalent share,
34 and payments received from and disbursed to each plan from the
35 electronic products recycling account;

36 (3) A description of the various collection programs used to
37 collect covered electronic products in the state;

1 (4) An evaluation of how the pounds per capita recycled of covered
2 electronic products in the state compares to programs in other states;

3 (5) Comments received from local governments and local communities
4 regarding satisfaction with the program, including accessibility and
5 convenience of services provided by the plans;

6 (6) Recommendations on how to improve the statewide collection,
7 transportation, and recycling system for convenient, safe, and
8 environmentally sound recycling of electronic products; and

9 (7) An analysis of whether and in what amounts unwanted electronic
10 products and electronic components and electronic scrap exported from
11 Washington have been exported to countries that are not members of the
12 organization for economic cooperation and development or the European
13 union, and recommendations for addressing such exports.

14 NEW SECTION. **Sec. 28.** (1) The Washington materials management and
15 financing authority is established as a public body corporate and
16 politic, constituting an instrumentality of the state of Washington
17 exercising essential governmental functions.

18 (2) The authority shall plan and implement a collection,
19 transportation, and recycling program for manufacturers that have
20 registered with the department their intent to participate in the
21 standard program as required under section 5 of this act.

22 (3) Membership in the authority is comprised of registered
23 participating manufacturers. Any manufacturer who does not qualify or
24 is not approved to submit an independent plan, or whose independent
25 plan has not been approved by the department, is a member of the
26 authority.

27 (4) The authority shall act as a business management organization
28 on behalf of the citizens of the state to manage financial resources
29 and contract for services for collection, transportation, and recycling
30 of covered electronic products.

31 (5) The authority's standard plan is responsible for collecting,
32 transporting, and recycling the sum of the equivalent shares of each
33 participating manufacturer. All new entrants and white box
34 manufacturers must participate in the standard plan.

35 (6) The authority shall accept into the standard program covered
36 electronic products from any registered collector who meets the
37 requirements of this chapter. The authority shall compensate

1 registered collectors for the reasonable costs associated with
2 collection, but is not required to compensate nor restricted from
3 compensating the additional collection costs resulting from the
4 additional convenience offered to customers through premium and
5 curbside services.

6 (7) Except as specifically allowed in this chapter, the authority
7 shall operate without using state funds or lending the credit of the
8 state or local governments.

9 (8) The authority shall develop innovative approaches to improve
10 materials management efficiency in order to ensure and increase the use
11 of secondary material resources within the economy.

12 NEW SECTION. **Sec. 29.** (1)(a) The authority is governed by a board
13 of directors. The initial board of directors is comprised of eleven
14 participating manufacturers, elected by the membership of the
15 authority. Five board positions are reserved for representatives of
16 the top ten brand owners by return share of covered electronic
17 products, and six board positions are reserved for representatives of
18 other brands, including at least one board position reserved for a
19 manufacturer who is also a retailer selling their own private label.

20 (b) The board must have representation from both television and
21 computer manufacturers.

22 (2) The board shall select from its membership the chair of the
23 board and such other officers as it deems appropriate.

24 (3) A majority of the board constitutes a quorum.

25 (4) The directors of the department of community, trade, and
26 economic development and the department of ecology, and the state
27 treasurer serve as ex officio members. The state agency directors and
28 the state treasurer serving in ex officio capacity may each designate
29 an employee of their respective departments to act on their behalf in
30 all respects with regard to any matter to come before the authority.
31 Ex officio designations must be made in writing and communicated to the
32 authority director.

33 (5) The board shall create its own bylaws in accordance with the
34 laws of the state of Washington.

35 (6) Any member of the board may be removed for misfeasance,
36 malfeasance, or willful neglect of duty after notice and a public

1 hearing, unless the notice and hearing are expressly waived in writing
2 by the affected member.

3 (7) The members of the board serve without compensation but are
4 entitled to reimbursement, solely from the funds of the authority, for
5 expenses incurred in the discharge of their duties under this chapter.

6 NEW SECTION. **Sec. 30.** (1) Participating manufacturers shall pay
7 the authority to cover all administrative and operational costs
8 associated with the collection, transportation, and recycling of
9 covered electronic products within the state of Washington incurred by
10 the standard program operated by the authority.

11 (2) The initial fee collected from the participating manufacturers
12 by the authority must be determined by the board. If the board sets
13 the fee based on units of covered electronic product sold in or into
14 the state by participating manufacturers, the fee may not be more than
15 ten dollars per unit. If the board fails to set the initial fee for
16 any reason, the fee is six dollars per unit for computers and
17 flat-screen computer monitors, eight dollars per unit for computer
18 monitors that are not flat-screen devices, and ten dollars per unit for
19 televisions sold in or into the state by participating manufacturers.
20 Thereafter, the authority shall set annual fees, assess charges to
21 participating manufacturers, and collect fees directly to fund the
22 activities of the standard program. The authority shall adjust the
23 fees as necessary in order to ensure that all costs associated with the
24 identified activities are covered.

25 NEW SECTION. **Sec. 31.** (1) Except as provided in subsection (2) of
26 this section, the authority shall use any funds legally available to it
27 for any purpose specifically authorized by this chapter to:

28 (a) Contract and pay for collecting, transporting, and recycling of
29 covered electronic products and education and other services as
30 identified in the standard plan;

31 (b) Pay for the expenses of the authority including, but not
32 limited to, salaries, benefits, operating costs and consumable
33 supplies, equipment, office space, and other expenses related to the
34 costs associated with operating the authority;

35 (c) Pay into the electronic products recycling account amounts

1 billed by the department to the authority for any deficit in reaching
2 the standard plan's equivalent share as required under section 22 of
3 this act; and

4 (d) Pay the department for the fees for submitting the standard
5 plan and any plan revisions.

6 (2) No funds available to the authority may be used to duplicate
7 the infrastructure already available through private industry in the
8 state.

9 (3) The authority may not receive an appropriation of state funds,
10 other than:

11 (a) Funds that may be provided as a one-time loan to cover
12 administrative costs associated with start up of the authority, such as
13 electing the board of directors and conducting the public hearing for
14 the operating plan, provided that no appropriated funds may be used to
15 pay for collection, transportation, or recycling services; and

16 (b) Funds received from the department from the electronic products
17 recycling account for exceeding the standard plan's equivalent share.

18 (4) The authority may receive additional sources of funding that do
19 not obligate the state to secure debt except as described in subsection
20 (1) of this section.

21 (5) All funds collected by the authority under this chapter,
22 including interest, dividends, and other profits, are and must remain
23 under the complete control of the authority and its board of directors,
24 be fully available to achieve the intent of this chapter, and be used
25 for the sole purpose of achieving the intent of this chapter.

26 NEW SECTION. **Sec. 32.** (1) The board shall adopt a general
27 operating plan of procedures for the authority. The board shall also
28 adopt operating procedures for collecting fees from participating
29 covered electronic manufacturers and for providing funding for
30 contracted services. These operating procedures must be adopted by
31 resolution prior to the authority operating the applicable programs.

32 (2) The general operating plan must include, but is not limited to:
33 (a) Appropriate minimum reserve requirements to secure the authority's
34 financial stability; and (b) appropriate standards for contracting for
35 services.

36 (3) The board shall conduct at least one public hearing on the

1 general operating plan prior to its adoption. The authority shall
2 provide and make public a written response to all comments received by
3 the public.

4 (4) The general operating plan must be adopted by resolution of the
5 board no later than April 1, 2007. The board may periodically update
6 the general operating plan as necessary, but must update the plan no
7 less than once every four years. The general operating plan or updated
8 plan must include a report on authority activities conducted since the
9 commencement of authority operation or since the last reported general
10 operating plan, whichever is more recent, including a statement of
11 results achieved under the purposes of this chapter and the general
12 operating plan. Upon adoption, the authority shall conduct its
13 programs in observance of the objectives established in the general
14 operating plan.

15 NEW SECTION. **Sec. 33.** (1) The authority shall employ a chief
16 executive officer, appointed by the board, and a chief financial
17 officer, as well as professional, technical, and support staff,
18 appointed by the chief executive officer, necessary to carry out its
19 duties.

20 (2) Employees of the authority are not classified employees of the
21 state. Employees of the authority are exempt from state service rules
22 and may receive compensation only from the authority at rates
23 competitive with state service.

24 (3) The authority must retain its own legal counsel.

25 (4) The departments of ecology and community, trade, and economic
26 development shall provide staff to assist in the creation of the
27 authority. If requested by the authority, the departments of ecology
28 and community, trade, and economic development shall also provide
29 start-up support staff to the authority for its first twelve months of
30 operation, or part thereof, to assist in the quick establishment of the
31 authority. Staff expenses must be paid through fees and funds
32 collected by the authority and must be reimbursed to the departments
33 from the authority's financial resources within the first twenty-four
34 months of operation.

35 (5) In addition to accomplishing the activities specifically
36 authorized in this chapter, the authority may:

37 (a) Maintain an office or offices;

1 (b) Make and execute all manner of contracts, agreements, and
2 instruments and financing documents with public and private parties as
3 the authority deems necessary, useful, or convenient to accomplish its
4 purposes;

5 (c) Make expenditures as appropriate for paying the administrative
6 costs and expenses of the authority in carrying out the provisions of
7 this chapter;

8 (d) Give assistance to private and public bodies contracted to
9 provide collection, transportation, and recycling services by providing
10 information, guidelines, forms, and procedures for implementing their
11 programs;

12 (e) Delegate, through contract, any of its powers and duties if
13 consistent with the purposes of this chapter; and

14 (f) Exercise any other power the authority deems necessary, useful,
15 or convenient to accomplish its purposes and exercise the powers
16 expressly granted in this chapter.

17 NEW SECTION. **Sec. 34.** This chapter is void if a federal law, or
18 a combination of federal laws, takes effect that establishes a national
19 program for the collection and recycling of covered electronic products
20 that substantially meets the intent of this chapter, including the
21 creation of a financing mechanism for collection, transportation, and
22 recycling of all covered electronic products from households, small
23 businesses, school districts, small governments, and charities in the
24 United States.

25 NEW SECTION. **Sec. 35.** A new section is added to chapter 43.19 RCW
26 to read as follows:

27 (1) The department of general administration shall establish
28 purchasing and procurement policies that establish a preference for
29 electronic products that meet environmental performance standards
30 relating to the reduction or elimination of hazardous materials.

31 (2) The department of general administration shall ensure that
32 their surplus electronic products, other than those sold individually
33 to private citizens, are managed only by registered transporters and by
34 processors meeting the requirements of section 25 of this act.

35 (3) The department of general administration shall ensure that
36 their surplus electronic products are directed to legal secondary

1 materials markets by requiring a chain of custody record that documents
2 to whom the products were initially delivered through to the end use
3 manufacturer.

4 **Sec. 36.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to
5 read as follows:

6 The following financial, commercial, and proprietary information is
7 exempt from disclosure under this chapter:

8 (1) Valuable formulae, designs, drawings, computer source code or
9 object code, and research data obtained by any agency within five years
10 of the request for disclosure when disclosure would produce private
11 gain and public loss;

12 (2) Financial information supplied by or on behalf of a person,
13 firm, or corporation for the purpose of qualifying to submit a bid or
14 proposal for (a) a ferry system construction or repair contract as
15 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
16 or improvement as required by RCW 47.28.070;

17 (3) Financial and commercial information and records supplied by
18 private persons pertaining to export services provided under chapters
19 43.163 and 53.31 RCW, and by persons pertaining to export projects
20 under RCW 43.23.035;

21 (4) Financial and commercial information and records supplied by
22 businesses or individuals during application for loans or program
23 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
24 or during application for economic development loans or program
25 services provided by any local agency;

26 (5) Financial information, business plans, examination reports, and
27 any information produced or obtained in evaluating or examining a
28 business and industrial development corporation organized or seeking
29 certification under chapter 31.24 RCW;

30 (6) Financial and commercial information supplied to the state
31 investment board by any person when the information relates to the
32 investment of public trust or retirement funds and when disclosure
33 would result in loss to such funds or in private loss to the providers
34 of this information;

35 (7) Financial and valuable trade information under RCW 51.36.120;

36 (8) Financial, commercial, operations, and technical and research

1 information and data submitted to or obtained by the clean Washington
2 center in applications for, or delivery of, program services under
3 chapter 70.95H RCW;

4 (9) Financial and commercial information requested by the public
5 stadium authority from any person or organization that leases or uses
6 the stadium and exhibition center as defined in RCW 36.102.010;

7 (10) Financial information, including but not limited to account
8 numbers and values, and other identification numbers supplied by or on
9 behalf of a person, firm, corporation, limited liability company,
10 partnership, or other entity related to an application for a liquor
11 license, gambling license, or lottery retail license;

12 (11) Proprietary data, trade secrets, or other information that
13 relates to: (a) A vendor's unique methods of conducting business; (b)
14 data unique to the product or services of the vendor; or (c)
15 determining prices or rates to be charged for services, submitted by
16 any vendor to the department of social and health services for purposes
17 of the development, acquisition, or implementation of state purchased
18 health care as defined in RCW 41.05.011; (~~and~~)

19 (12)(a) When supplied to and in the records of the department of
20 community, trade, and economic development:

21 (i) Financial and proprietary information collected from any person
22 and provided to the department of community, trade, and economic
23 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

24 (ii) Financial or proprietary information collected from any person
25 and provided to the department of community, trade, and economic
26 development or the office of the governor in connection with the
27 siting, recruitment, expansion, retention, or relocation of that
28 person's business and until a siting decision is made, identifying
29 information of any person supplying information under this subsection
30 and the locations being considered for siting, relocation, or expansion
31 of a business;

32 (b) When developed by the department of community, trade, and
33 economic development based on information as described in (a)(i) of
34 this subsection, any work product is not exempt from disclosure;

35 (c) For the purposes of this subsection, "siting decision" means
36 the decision to acquire or not to acquire a site;

37 (d) If there is no written contact for a period of sixty days to
38 the department of community, trade, and economic development from a

1 person connected with siting, recruitment, expansion, retention, or
2 relocation of that person's business, information described in (a)(ii)
3 of this subsection will be available to the public under this chapter;
4 and

5 (13) Financial and proprietary information submitted to or obtained
6 by the department of ecology or the authority created under chapter
7 70.-- RCW (sections 1 through 34 of this act) to implement chapter
8 70.-- RCW (sections 1 through 34 of this act).

9 NEW SECTION. Sec. 37. This act must be liberally construed to
10 carry out its purposes and objectives.

11 NEW SECTION. Sec. 38. If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. Sec. 39. This act takes effect July 1, 2006.

16 NEW SECTION. Sec. 40. Sections 1 through 34 of this act
17 constitute a new chapter in Title 70 RCW.

--- END ---