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HOUSE BILL 2662

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State of Washington

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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 01/11/2006. Referred to Committee on Natural Resources, Ecology & Parks.

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.

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

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

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

1 (8) "Department" means the department of ecology.

2 (9) "Electronic product" includes a cathode ray tube or flat panel  
3 computer monitor; a desktop computer; a laptop or a portable computer;  
4 or a cathode ray tube or flat screen television. Televisions and  
5 computer monitors include both cathode ray tubes and flat screens  
6 having a viewable area greater than four inches when measured  
7 diagonally.

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

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

14 (12) "Independent plan" means a plan for the collection,  
15 transportation, and recycling of unwanted covered electronic products  
16 that is developed, implemented, and financed by an individual  
17 manufacturer or by an authorized party.

18 (13) "Manufacturer" means any person who, either as of the  
19 effective date of this section or thereafter, and irrespective of the  
20 selling technique used, including by means of distance or remote sale:

21 (a) Manufactures a covered electronic product under its own brand  
22 names for sale in this state;

23 (b) Assembles a covered electronic product that uses parts  
24 manufactured by others for sale in this state under the assembler's  
25 brand names;

26 (c) Resells in this state under its own brand names a covered  
27 electronic product produced by other suppliers, including retail  
28 establishments that sell covered electronic products under their own  
29 brand names;

30 (d) Imports or exports a covered electronic product into the United  
31 States that is sold in this state. However, if a company from whom an  
32 importer purchases the merchandise has a presence or assets in the  
33 United States, that company is deemed to be the manufacturer; or

34 (e) Manufactures a cobranded product that carries the name of both  
35 the manufacturer and a retailer.

36 (14) "New entrant" means a manufacturer of televisions that have  
37 been sold in the state for less than ten years, and a manufacturer of

1 desktop computers, laptop and portable computers, or computer monitors  
2 that have been sold in the state for less than five years.

3 (15) "Orphan product" means a covered electronic product that lacks  
4 a manufacturer's brand or for which the manufacturer is no longer in  
5 business and has no successor in interest.

6 (16) "Plan's equivalent share" means the weight in pounds of  
7 covered electronic products for which a plan is responsible. A plan's  
8 equivalent share is equal to the sum of the equivalent shares of each  
9 manufacturer participating in that plan.

10 (17) "Plan's return share" means the sum of the return shares of  
11 each manufacturer participating in that plan.

12 (18) "Program" means the collection, transportation, and recycling  
13 activities conducted to implement an independent plan or the standard  
14 plan.

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

21 (20) "Product type" means one of the following categories:  
22 Computer monitors; desktop computers; laptop and portable computers;  
23 and televisions.

24 (21) "Program year" means each full calendar year after the program  
25 has been initiated.

26 (22) "Recycling" means transforming or remanufacturing waste  
27 materials into usable or marketable materials for use other than  
28 landfill disposal or incineration. "Recycling" does not include energy  
29 recovery or energy generation by means of combusting electronic waste  
30 with or without other waste. Smelting of electronic wastes to recover  
31 metals for reuse in conformance with all applicable laws and  
32 regulations is not considered disposal or energy recovery.

33 (23) "Retailer" means a person who offers covered electronic  
34 products for sale at retail through any means including, but not  
35 limited to, remote offerings such as sales outlets, catalogs, or the  
36 internet, but does not include a sale that is a wholesale transaction  
37 with a distributor or a retailer.

1 (24) "Return share" means the percentage of covered electronic  
2 products by weight identified for an individual manufacturer, as  
3 determined by the department under section 19 of this act.

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

7 (26) "Small business" means a business employing less than fifty  
8 people in the state.

9 (27) "Small government" means a city in the state with a population  
10 less than fifty thousand, a county in the state with a population less  
11 than one hundred twenty-five thousand, and special purpose districts in  
12 the state.

13 (28) "Standard plan" means the plan for the collection,  
14 transportation, and recycling of unwanted covered electronic products  
15 developed, implemented, and financed by the authority on behalf of  
16 manufacturers participating in the authority.

17 (29) "Transporter" means an entity that transports covered  
18 electronic products from collection sites to processors or other  
19 locations for the purpose of recycling, but does not include any entity  
20 or person that hauls their own unwanted electronic products.

21 (30) "Unwanted electronic product" means a covered electronic  
22 product that has been discarded or is intended to be discarded by its  
23 owner.

24 (31) "White box manufacturer" means a person who manufactured  
25 unbranded covered electronic products offered for sale in the state  
26 within ten years prior to a program year for televisions or within five  
27 years prior to a program year for desktop computers, laptop or portable  
28 computers, or computer monitors.

29 NEW SECTION. **Sec. 3.** (1) A manufacturer whose covered electronic  
30 products are offered for sale in or into the state must participate in  
31 an independent plan or the standard plan to implement and finance the  
32 collection, transportation, and recycling of its equivalent share of  
33 covered electronic products.

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

36 (3) The manufacturers participating in an approved plan are  
37 responsible for covering all administrative and operational costs

1 associated with the collection, transportation, and recycling of their  
2 plan's equivalent share of covered electronic products. If costs are  
3 passed on to consumers, it must be done without any fees at the time  
4 the unwanted electronic product is delivered or collected for  
5 recycling.

6 (4) Manufacturers are encouraged to collaborate with electronic  
7 product retailers, certificated waste haulers, processors, recyclers,  
8 charities, and local governments in the development and implementation  
9 of their plans.

10 NEW SECTION. **Sec. 4.** (1) By January 1, 2007, and annually  
11 thereafter, each manufacturer whose covered electronic products are  
12 offered for sale in or into the state must register with the  
13 department.

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

18 (3) The department shall review a registration and notify the  
19 manufacturer if their registration does not meet the requirements of  
20 this section. Within thirty days of receipt of such a notification  
21 from the department, the manufacturer must file with the department a  
22 revised registration addressing the requirements noted by the  
23 department.

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

25 (a) The name and contact information of the manufacturer submitting  
26 the registration;

27 (b) The manufacturer's brand names of covered electronic products,  
28 including all brand names sold in the state by that manufacturer in the  
29 past and all brand names currently being sold in the state;

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

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

33 (5) The registrant shall submit any changes to the information  
34 provided in the registration to the department within fourteen days of  
35 such change.

36 (6) The department shall determine, using all reasonable means,  
37 manufacturers that are in business or that are no longer in business

1 but that have a successor in interest by examining best available  
2 return share data and other pertinent data. The department shall  
3 notify manufacturers that have been identified and for whom an address  
4 has been found of the requirements of this chapter, including  
5 registration and plan requirements under this section and section 5 of  
6 this act.

7 NEW SECTION. **Sec. 5.** (1) A manufacturer whose covered electronic  
8 products are offered for sale in or into the state must participate in  
9 the standard plan administered by the authority, unless the  
10 manufacturer obtains department approval for an independent plan for  
11 the collection, transportation, and recycling of unwanted electronic  
12 products.

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

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

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

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

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

25 (b) Each group of manufacturers submitting an independent plan must  
26 designate a party authorized to file the plan with the department on  
27 their behalf. A letter of certification from each of the manufacturers  
28 designating the authorized party must be submitted to the department  
29 together with the plan.

30 (5) Each manufacturer in the standard plan or in an independent  
31 plan retains responsibility and liability under this chapter in the  
32 event that the plan fails to meet the manufacturer's obligations under  
33 this chapter.

34 NEW SECTION. **Sec. 6.** (1) All initial independent plans and the  
35 initial standard plan required under section 5 of this act must be

1 submitted to the department by February 1, 2008. The department shall  
2 review each independent plan and the standard plan.

3 (2) The authority submitting the standard plan and each authorized  
4 party submitting an independent plan to the department must pay a fee  
5 to the department to cover the costs of administering and implementing  
6 this chapter. The department shall set the fees as described under  
7 section 23 of this act.

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

11 (4) Within ninety days after receipt of a plan, the department  
12 shall determine whether the plan complies with this chapter. If the  
13 plan is approved, the department shall send a letter of approval. If  
14 a plan is rejected, the department shall provide the reasons for  
15 rejecting the plan to the authority or authorized party. The authority  
16 or authorized party has sixty days after receipt of the letter of  
17 disapproval to submit a new plan.

18 (5) An independent plan and the standard plan must contain the  
19 following elements:

20 (a) Contact information for the authority or authorized party and  
21 a comprehensive list of all manufacturers participating in the plan and  
22 their contact information;

23 (b) A description of the collection, transportation, and recycling  
24 systems and service providers used;

25 (c) The method or methods for the convenient collection of covered  
26 electronic products in rural and urban areas throughout the state,  
27 including how the plan will provide for collection services in each  
28 county of the state and for a minimum of one collection site for each  
29 city or town with a population greater than ten thousand;

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

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

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

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

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

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

8 (6) All transporters and collectors used to fulfill the  
9 requirements of this section must be registered as described in section  
10 24 of this act.

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

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

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

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

34 (3) The authority or authorized parties may buy and sell weight of  
35 covered electronic products with other plans without submitting a plan  
36 revision for review.

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

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

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

10       NEW SECTION.    **Sec. 9.** (1) A program must provide for collection  
11 services for covered electronic products that are convenient and  
12 available to all citizens of the state residing within its geographic  
13 boundaries, including both rural and urban populations. Each program  
14 must provide collection service in every county of the state. In  
15 counties with a small and widely dispersed population, a program may  
16 provide collection service jointly with another plan or plans.

17        (a) Each program shall provide collection service at a minimum of  
18 one collection site for any city or town with a population greater than  
19 ten thousand.

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

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

26        (2) A program may limit the number of covered electronic products  
27 or covered electronic products by product type accepted per customer  
28 per day or per delivery at a collection site. All covered entities may  
29 use a collection site as long as the covered entities adhere to any  
30 restrictions established in the plans.

31        (3) A program may provide collection services in forms different  
32 than collection sites if those alternate services provide equal or  
33 better convenience to citizens and equal or increased recovery of  
34 unwanted covered electronic products.

35        (4) A program may provide service to rural areas without commercial  
36 centers or areas with widely dispersed population by providing

1 collections at the nearest commercial centers or solid waste sites,  
2 collection events, mail-back systems, or a combination of these  
3 options.

4 (5) A program may provide alternate services for small businesses,  
5 small governments, charities, and school districts for large quantities  
6 of covered electronic products that cannot be handled at collection  
7 sites. At a minimum, a program must provide for processing of these  
8 large quantities of covered electronic products at no charge to the  
9 small businesses, small governments, charities, and school districts.

10 NEW SECTION. **Sec. 10.** Any person acquiring a manufacturer has the  
11 responsibility for the acquired company's covered electronic products,  
12 including covered electronic products manufactured prior to the  
13 effective date of this section, unless that responsibility remains with  
14 the other entity per the purchase agreement. Cobranding manufacturers  
15 may negotiate with retailers for responsibility for those products.

16 NEW SECTION. **Sec. 11.** (1) An independent plan and the standard  
17 plan must implement and finance an auditable, statistically significant  
18 sampling of covered electronic products entering its program every  
19 program year. The information collected must include a list of the  
20 brand names of covered electronic products by product type, the number  
21 of covered electronic products by product type, the weight of covered  
22 electronic products that are identified for each brand name or that  
23 lack a manufacturer's brand, the total weight of the sample by product  
24 type, and any additional information needed to assign return share.

25 (2) The sampling must be conducted in the presence of the  
26 department or a third-party organization approved by the department.  
27 The department may, at its discretion, audit the methodology and the  
28 results.

29 (3) After the fifth program year, the department may reassess the  
30 sampling required in this section. The department may adjust the  
31 frequency at which manufacturers must implement the sampling or may  
32 adjust the frequency at which manufacturers must provide certain  
33 information from the sampling. Prior to making any changes, the  
34 department shall notify the public, including all registered  
35 manufacturers, and provide a comment period. The department shall  
36 notify all registered manufacturers of any such changes.

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

8        (2) The department shall promote covered electronic product  
9 recycling by:

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

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

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

16        (3) Local governments shall promote covered electronic product  
17 recycling, including listings of local collection sites, through  
18 already existing educational methods typically used by each local  
19 government.

20        (4) A retailer who sells new covered electronic products shall  
21 provide information to consumers describing where and how to recycle  
22 covered electronic products and opportunities and locations for the  
23 convenient collection or return of the products. This requirement can  
24 be fulfilled by providing the department's toll-free telephone number  
25 and web site. Remote sellers may include the information in a visible  
26 location on their web site as fulfillment of this requirement.

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

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

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

5 (3) Moneys in the account may be used solely by the department for  
6 the purposes of fulfilling department responsibilities specified in  
7 this chapter and for expenditures to the authority and authorized  
8 parties resulting from plans exceeding their equivalent share, as  
9 described in section 22 of this act. Funds in the account may not be  
10 diverted for any purpose or activity other than those specified in this  
11 section.

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

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

17 (a) The total weight in pounds of covered electronic products  
18 collected and recycled, by county, during the preceding program year  
19 including documentation verifying collection and processing of that  
20 material. The total weight in pounds includes orphan products. The  
21 report must also indicate and document the weight in pounds received  
22 from each nonprofit charitable organization primarily engaged in the  
23 business of reuse and resale used by the plan. The report must  
24 document the weight in pounds that were received in large quantities  
25 from small businesses, small governments, charities and school  
26 districts as described in section 9(5) of this act;

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

31 (c) A list of processors used, the weight of covered electronic  
32 products processed by each processor, and a description of the  
33 processes and methods used to recycle the covered electronic products  
34 including a description of the processing and facility locations. The  
35 report must also include a complete list of all subcontractors who  
36 further processed all materials listed in section 25(1)(b) of this act,

1 including facility locations and the total weight sent to each  
2 facility;

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

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

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

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

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

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

23 (5) All reports submitted to the department must be available to  
24 the general public through the internet. Proprietary information  
25 submitted to the department under this chapter is exempt from public  
26 disclosure under RCW 42.56.270.

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

35 NEW SECTION. **Sec. 16.** (1) Beginning July 1, 2006, no person may

1 sell or offer for sale an electronic product to any person in the state  
2 unless the electronic product is labeled with the manufacturer's brand.  
3 The label must be permanently affixed and readily visible.

4 (2) In-state retailers in possession of unlabeled products on July  
5 1, 2006, may exhaust their stock through sales to the public.

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

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 19.** (1) The department shall determine the  
33 return share percentage for each manufacturer of covered electronic  
34 products by dividing the weight of covered electronic products  
35 identified for each manufacturer by the total weight of covered

1 electronic products identified for all manufacturers participating in  
2 the standard or an independent plan, then multiplying the quotient by  
3 one hundred.

4 (2) For the first program year, the percentage of covered  
5 electronic products identified for an individual manufacturer must be  
6 based on best available information regarding return share data from  
7 other states.

8 (3) For the second and each subsequent program year, the percentage  
9 of covered electronic products identified for an individual  
10 manufacturer must be based on the most recent sampling of covered  
11 electronic products conducted in the state under section 11 of this  
12 act. The department may also examine data from other states to inform  
13 its decision.

14 NEW SECTION. **Sec. 20.** (1) The department shall determine the  
15 total equivalent share for each manufacturer of covered electronic  
16 products by dividing the return share percentage for each manufacturer  
17 by one hundred, then multiplying the quotient by the total weight in  
18 pounds of covered electronic products collected for that program year.

19 (2)(a) By June 1st of each program year, the department shall  
20 notify each manufacturer of the manufacturer's equivalent share of  
21 covered electronic products to be applied to the previous program year.  
22 The department shall also notify each manufacturer of how its  
23 equivalent share was determined.

24 (b) By June 1st of each program year, the department shall bill any  
25 authorized party or authority that has not attained its equivalent  
26 share as determined under section 22 of this act. The authorized party  
27 or authority shall remit payment to the department within sixty days  
28 from the billing date.

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

31 (3) Plans that utilize the collection services of nonprofit  
32 charitable 501(c)3 organizations that are primarily engaged in the  
33 business of reuse and resale must be given an additional five percent  
34 credit to be applied towards a plan's equivalent share for pounds that  
35 are received for recycling from those organizations. The department  
36 may adjust the percentage of credit annually.

1        NEW SECTION.    **Sec. 21.**    (1) By September 1, 2006, the department  
2 shall notify each manufacturer of its preliminary return share of  
3 covered electronic products for the first program year.

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

7        (3) Manufacturers may challenge the preliminary return share by  
8 written petition to the department. The petition must be received by  
9 the department within thirty days of the date of publication of the  
10 preliminary return shares.

11       (4) The petition must contain a detailed explanation of the grounds  
12 for the challenge, an alternative calculation, and the basis for such  
13 a calculation, documentary evidence supporting the challenge, and  
14 complete contact information for requests for additional information or  
15 clarification.

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

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

24       (7) By November 1, 2006, preceding the first program year and by  
25 August 1st of the second and each subsequent program year, the  
26 department shall publish the final return shares for use in the coming  
27 program year.

28       NEW SECTION.    **Sec. 22.**    (1) For an independent plan and the  
29 standard plan, if the total weight in pounds of covered electronic  
30 products collected during a program year is less than the plan's  
31 equivalent share of covered electronic products for that year, then the  
32 authority or authorized party shall submit to the department a payment  
33 equal to the weight in pounds of the deficit multiplied by the  
34 reasonable collection, transportation, and recycling cost for covered  
35 electronic products and the administrative fee. Moneys collected by  
36 the department must be deposited in the electronic products recycling  
37 account.

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

8 (3) For purposes of this section, the initial reasonable  
9 collection, transportation, and recycling cost for covered electronic  
10 products is forty-five cents per pound and the administrative fee is  
11 five cents per pound.

12 (4) The department may annually adjust the reasonable collection,  
13 transportation, and recycling cost for covered electronic products and  
14 the administrative fee described in this section. Prior to making any  
15 changes in the fees described in this section, the department shall  
16 notify the public, including all registered manufacturers, and provide  
17 a comment period. The department shall notify all registered  
18 manufacturers of any changes to the reasonable collection,  
19 transportation, and recycling cost or the administrative fee by January  
20 1st of the program year in which the change is to take place.

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

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

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

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

1        NEW SECTION.    **Sec. 24.**    Each collector and transporter of covered  
2 electronic products in the state must register annually with the  
3 department.        The registration must include all identification  
4 requirements for licensure in the state and the geographic area of the  
5 state that they serve.    The department shall develop a single form for  
6 registration of both collectors and transporters.

7        NEW SECTION.    **Sec. 25.**    (1)(a) The authority and each authorized  
8 party shall ensure that each processor used to fulfill the requirements  
9 of their respective standard plan or independent plan is in and remains  
10 in compliance with the requirements of this section.    If the department  
11 determines that a processor used in the standard plan or an independent  
12 plan does not meet the requirements of this section, the department  
13 shall require that the authority or authorized party change the plan or  
14 demonstrate that the processor has come into compliance with the  
15 requirements.

16        (b) Processors shall perform due diligence and have documentation  
17 of the chain of custody for any of the following equipment or materials  
18 destined for repair or reuse not meeting the requirements in (d) of  
19 this subsection, recycling, or disposal:    Whole electronic products,  
20 cathode ray tubes and circuit boards, whole, shredded, or in part or  
21 any devices containing them, glass cullet, lead, cadmium, selenium and  
22 selenium compounds, beryllium and beryllium compounds, mercury, and  
23 mercury-containing devices such as switches and lamps.

24        (c) All shipments of the equipment, components, or materials listed  
25 in (b) of this subsection destined for recycling, disposal, or repair  
26 or reuse not meeting the requirements in (d) of this subsection must  
27 comply with all federal laws, all applicable laws of recipient  
28 countries, and all applicable international laws and agreements.  
29 Whenever export occurs, processors must have copies of all relevant  
30 import permits provided to facilities in recipient countries by their  
31 governments including the consents required under relevant  
32 international laws and agreements for receiving such wastes from the  
33 United States.

34        (d) Any electronic product or component of an electronic product  
35 exported into a reuse market must be tested and certified and labeled  
36 as fully functional or specifying the need for only minor repairs that

1 will not result in the removal or replacement of hazardous components  
2 or materials listed in (b) of this subsection.

3 (2) The department shall establish by rule performance standards  
4 for environmentally sound management for processors used to fulfill the  
5 requirements of an independent plan or the standard plan. Performance  
6 standards must include financial assurances to ensure proper closure of  
7 facilities consistent with environmental standards.

8 (3) The department shall establish by rule the allowable percent of  
9 nonrecycled residual that may be properly disposed after covered  
10 electronic products have been processed.

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

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

15 NEW SECTION. **Sec. 26.** (1) The department shall send a written  
16 warning to a manufacturer that does not have an approved plan or is not  
17 participating in an approved plan as required under section 5 of this  
18 act. The written warning must inform the manufacturer that it must  
19 participate in an approved plan within ninety days of the notice. Any  
20 infraction after the initial written warning shall be assessed a  
21 penalty of up to ten thousand dollars upon the first citation of  
22 infraction along with notification that the manufacturer must  
23 participate in an approved plan within ninety days of the citation.  
24 After ninety days, a manufacturer not in compliance with this section  
25 is prohibited from offering an electronic product for sale in this  
26 state.

27 (2) If the authority or any authorized party fails to implement  
28 their approved plan, the department must assess a penalty of up to five  
29 thousand dollars upon first citation of infraction along with  
30 notification that the authority or authorized party must implement its  
31 plan within ninety days of the citation. After ninety days, the  
32 authority or any authorized party failing to implement their approved  
33 plan must be assessed a penalty of up to ten thousand dollars upon the  
34 second and each subsequent citation of infraction.

35 (3) Any person that does not comply with manufacturer registration  
36 requirements under section 4 of this act, education and outreach  
37 requirements under section 12 of this act, reporting requirements under

1 section 14 of this act, labeling requirements under section 16 of this  
2 act, retailer responsibility requirements under section 17 of this act,  
3 collector or transporter registration requirements under section 24 of  
4 this act, or processing standards under section 25 of this act, must  
5 first receive a written warning including a copy of the requirements  
6 under this chapter and ninety days to correct the violation. After  
7 ninety days, a person must be assessed a penalty of up to one thousand  
8 dollars upon first citation of infraction and up to two thousand  
9 dollars upon the second and each subsequent citation of infraction.

10 (4) All penalties levied under this section must be deposited into  
11 the electronic products recycling account created under section 13 of  
12 this act.

13 (5) The department shall enforce this section.

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

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

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

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

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

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

30 (6) Recommendations on how to improve the statewide collection,  
31 transportation, and recycling system for convenient, safe, and  
32 environmentally sound recycling of electronic products.

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

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

5 (3) Membership in the authority is comprised of registered  
6 participating manufacturers. Any manufacturer who does not qualify or  
7 is not approved to submit an independent plan, or whose independent  
8 plan has not been approved by the department, is a member of the  
9 authority.

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

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

18 (6) The authority shall accept into the standard program covered  
19 electronic products from any registered collector who meets the  
20 requirements of this chapter and the terms of the standard plan. The  
21 authority shall compensate registered collectors for the reasonable  
22 costs associated with collection.

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

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

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

1 (b) The board must have representation from both television and  
2 computer manufacturers.

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

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

6 (4) The directors of the department of community, trade, and  
7 economic development and the department of ecology, and the state  
8 treasurer serve as ex officio members. The state agency directors and  
9 the state treasurer serving in ex officio capacity may each designate  
10 an employee of their respective departments to act on their behalf in  
11 all respects with regard to any matter to come before the authority.  
12 Ex officio designations must be made in writing and communicated to the  
13 authority director.

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

16 (6) Any member of the board may be removed for misfeasance,  
17 malfeasance, or willful neglect of duty after notice and a public  
18 hearing, unless the notice and hearing are expressly waived in writing  
19 by the affected member.

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

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

28 (2)(a) The initial fee collected from the participating  
29 manufacturers by the authority must be determined by the board and may  
30 be not less than four dollars and not more than ten dollars per unit of  
31 covered electronic product sold in or into the state by manufacturers  
32 for the first year of operation.

33 (b) Thereafter, the authority shall set annual fees, assess charges  
34 to participating manufacturers, and collect fees directly to fund the  
35 activities of the standard program. The authority shall adjust the  
36 fees as necessary in order to ensure that all costs associated with the  
37 identified activities are covered.

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

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

7        (b) Pay for the expenses of the authority including, but not  
8 limited to, salaries, benefits, operating costs and consumable  
9 supplies, equipment, office space, and other expenses related to the  
10 costs associated with operating the authority;

11       (c) Pay into the electronic products recycling account amounts  
12 billed by the department to the authority for any deficit in reaching  
13 the standard plan's equivalent share as required under section 22 of  
14 this act; and

15       (d) Pay the department for the fees for submitting the standard  
16 plan and any plan revisions.

17       (2) No funds available to the authority may be used to duplicate  
18 the infrastructure already available through private industry in the  
19 state.

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

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

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

29       (4) The authority may receive grants, contributions, and other  
30 sources of funding that do not obligate the state to secure debt except  
31 as described in subsection (1) of this section.

32       (5) All funds collected by the authority under this chapter,  
33 including interest, dividends, and other profits, are and must remain  
34 under the complete control of the authority and its board of directors  
35 and be fully available to achieve the intent of this chapter.

36       NEW SECTION.    **Sec. 32.**    (1) The board shall adopt a general  
37 operating plan of procedures for the authority. The board shall also

1 adopt operating procedures for collecting fees from participating  
2 covered electronic manufacturers and for providing funding for  
3 contracted services. These operating procedures must be adopted by  
4 resolution prior to the authority operating the applicable programs.

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

9 (3) The board shall conduct at least one public hearing on the  
10 general operating plan prior to its adoption. The authority shall  
11 provide and make public a written response to all comments received by  
12 the public.

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

24 NEW SECTION. **Sec. 33.** (1) The authority shall employ a chief  
25 executive officer, appointed by the board, and a chief financial  
26 officer, as well as professional, technical, and support staff,  
27 appointed by the chief executive officer, necessary to carry out its  
28 duties.

29 (2) Employees of the authority are not classified employees of the  
30 state. Employees of the authority are exempt from state service rules  
31 and may receive compensation only from the authority at rates  
32 competitive with state service.

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

34 (4) If requested by the authority, the departments of ecology and  
35 community, trade, and economic development shall provide start-up  
36 support staff to the authority for its first twelve months of  
37 operation, or part thereof, to assist in the quick establishment of the

1 authority. Staff expenses must be paid through fees and funds  
2 collected by the authority and must be reimbursed to the departments  
3 from the authority's financial resources within the first twenty-four  
4 months of operation.

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

7 (a) Maintain an office or offices;

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

12 (c) Make expenditures as appropriate for paying the administrative  
13 costs and expenses of the authority in carrying out the provisions of  
14 this chapter;

15 (d) Give assistance to private and public bodies contracted to  
16 provide collection, transportation, and recycling services by providing  
17 information, guidelines, forms, and procedures for implementing their  
18 programs;

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

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

24 NEW SECTION. **Sec. 34.** This chapter is void upon the establishment  
25 of a national system for covered electronic products established  
26 through an act of congress that substantially meets the scope and  
27 intent of this chapter, including the creation of a financing mechanism  
28 for collection, transportation, and recycling of all covered electronic  
29 products from households, small businesses, school districts, small  
30 governments, and charities.

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

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

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

5 (3) The department of general administration shall ensure that  
6 their surplus electronic products are directed to legal secondary  
7 materials markets by requiring a chain of custody record that documents  
8 to whom the products were initially delivered through to the end use  
9 manufacturer.

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

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

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

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

23 (3) Financial and commercial information and records supplied by  
24 private persons pertaining to export services provided under chapters  
25 43.163 and 53.31 RCW, and by persons pertaining to export projects  
26 under RCW 43.23.035;

27 (4) Financial and commercial information and records supplied by  
28 businesses or individuals during application for loans or program  
29 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
30 or during application for economic development loans or program  
31 services provided by any local agency;

32 (5) Financial information, business plans, examination reports, and  
33 any information produced or obtained in evaluating or examining a  
34 business and industrial development corporation organized or seeking  
35 certification under chapter 31.24 RCW;

36 (6) Financial and commercial information supplied to the state  
37 investment board by any person when the information relates to the

1 investment of public trust or retirement funds and when disclosure  
2 would result in loss to such funds or in private loss to the providers  
3 of this information;

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

5 (8) Financial, commercial, operations, and technical and research  
6 information and data submitted to or obtained by the clean Washington  
7 center in applications for, or delivery of, program services under  
8 chapter 70.95H RCW;

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

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

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

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

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

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

37 (b) When developed by the department of community, trade, and

1 economic development based on information as described in (a)(i) of  
2 this subsection, any work product is not exempt from disclosure;

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

5 (d) If there is no written contact for a period of sixty days to  
6 the department of community, trade, and economic development from a  
7 person connected with siting, recruitment, expansion, retention, or  
8 relocation of that person's business, information described in (a)(ii)  
9 of this subsection will be available to the public under this chapter;  
10 and

11 (13) Financial and proprietary information submitted to or obtained  
12 by the department of ecology to implement chapter 70.-- RCW (sections  
13 1 through 34 of this act).

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

16 NEW SECTION. Sec. 38. If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

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

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

--- END ---