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ENGROSSED SUBSTITUTE SENATE BILL 6428

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State of Washington

59th Legislature

2006 Regular Session

**By** Senate Committee on Water, Energy & Environment (originally sponsored by Senators Pridemore, Esser, Poulsen, Morton, Schmidt, Fairley, Benson, Berkey, Regala, Kohl-Welles, Weinstein, Prentice, Kastama, Johnson, Thibaudeau, Kline, Eide, Shin, Rockefeller, Jacobsen, Haugen, Doumit, Oke, Franklin, Swecker, Carrell, Rasmussen, Spanel, Fraser, McAuliffe, Keiser, Brown, Finkbeiner, Brandland and Benton)

READ FIRST TIME 01/30/06.

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 covered entity  
25 regardless of original point of purchase. "Covered electronic product"  
26 does not include: (a) A motor vehicle or replacement parts for use in  
27 motor vehicles or aircraft, or any computer, computer monitor, or  
28 television that is contained within, and is not separate from, the  
29 motor vehicle or aircraft; (b) monitoring and control instruments or  
30 systems; (c) medical devices; (d) products including materials intended  
31 for use as ingredients in those products as defined in the federal  
32 food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or the virus-  
33 serum-toxin act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations  
34 issued under those acts; (e) equipment used in the delivery of patient  
35 care in a health care setting; (f) a computer, computer monitor, or  
36 television that is contained within a clothes washer, clothes dryer,  
37 refrigerator, refrigerator and freezer, microwave oven, conventional

1 oven or range, dishwasher, room air conditioner, dehumidifier, or air  
2 purifier; or (g) hand-held portable voice or data devices used for  
3 commercial mobile 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 reclaiming 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. A program may provide collection services jointly  
19 with another plan or plans.

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

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

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

33 (2) A program may limit the number of covered electronic products  
34 or covered electronic products by product type accepted per customer  
35 per day or per delivery at a collection site or service. All covered

1 entities may use a collection site as long as the covered entities  
2 adhere to any restrictions established in the plans.

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

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

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

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

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

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

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

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

20 (2) The department shall promote covered electronic product  
21 recycling by:

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

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

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

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

32 (4) A retailer who sells new covered electronic products shall  
33 provide information to consumers describing where and how to recycle  
34 covered electronic products and opportunities and locations for the  
35 convenient collection or return of the products. This requirement can  
36 be fulfilled by providing the department's toll-free telephone number

1 and web site. Remote sellers may include the information in a visible  
2 location on their web site as fulfillment of this requirement.

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

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

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

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

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

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

29 (a) The total weight in pounds of covered electronic products  
30 collected and recycled, by county, during the preceding program year  
31 including documentation verifying collection and processing of that  
32 material. The total weight in pounds includes orphan products. The  
33 report must also indicate and document the weight in pounds received  
34 from each nonprofit charitable organization primarily engaged in the  
35 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 direct 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 list of subcontractors who further processed  
13 or recycled unwanted covered electronic products, electronic  
14 components, or electronic scrap described in section 25(1)(b) of this  
15 act, including facility locations;

16 (d) Other documentation as established under section 25(1)(d) of  
17 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.

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

33 (5) All reports submitted to the department must be available to  
34 the general public through the internet. Proprietary information  
35 submitted to the department under this chapter is exempt from public  
36 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 in the standard plan or an  
8 independent plan by dividing the weight of covered electronic products  
9 identified for each manufacturer by the total weight of covered  
10 electronic products identified for all manufacturers in the standard  
11 plan or an independent plan, then multiplying the quotient by one  
12 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 in the standard plan or an  
24 independent plan by dividing the return share percentage for each  
25 manufacturer by one hundred, then multiplying the quotient by the total  
26 weight in pounds of covered electronic products collected for that  
27 program year, allowing as needed for the additional credit authorized  
28 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) No manufacturer may sell or offer for  
32 sale a covered electronic product in or into the state unless the  
33 manufacturer of the covered electronic product is participating in an  
34 approved plan. The department shall send a written warning to a  
35 manufacturer that does not have an approved plan or is not  
36 participating in an approved plan as required under section 5 of this  
37 act. The written warning must inform the manufacturer that it must

1 participate in an approved plan within thirty days of the notice. Any  
2 violation after the initial written warning shall be assessed a penalty  
3 of up to ten thousand dollars for each violation.

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

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

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

27 (5) The department shall enforce this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) The authority shall accept into the standard program covered  
2 electronic products from any registered collector who meets the  
3 requirements of this chapter. The authority shall compensate  
4 registered collectors for the reasonable costs associated with  
5 collection, but is not required to compensate nor restricted from  
6 compensating the additional collection costs resulting from the  
7 additional convenience offered to customers through premium and  
8 curbside services.

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

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

15 NEW SECTION. **Sec. 29.** (1)(a) The authority is governed by a board  
16 of directors. The initial board of directors is comprised of eleven  
17 participating manufacturers, elected by the membership of the  
18 authority. Five board positions are reserved for representatives of  
19 the top ten brand owners by return share of covered electronic  
20 products, and six board positions are reserved for representatives of  
21 other brands, including at least one board position reserved for a  
22 manufacturer who is also a retailer selling their own private label.  
23 The return share of covered electronic products used to determine the  
24 top ten brand owners for purposes of electing the board must be  
25 determined by the department by January 1, 2007.

26 (b) The board must have representation from both television and  
27 computer manufacturers.

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

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

31 (4) The directors of the department of community, trade, and  
32 economic development and the department of ecology, and the state  
33 treasurer serve as ex officio members. The state agency directors and  
34 the state treasurer serving in ex officio capacity may each designate  
35 an employee of their respective departments to act on their behalf in  
36 all respects with regard to any matter to come before the authority.



1 Ex officio designations must be made in writing and communicated to the  
2 authority director.

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

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

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

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

17 (2) The authority shall assess charges and collect funds from  
18 participating manufacturers based on return share, market share, any  
19 combination thereof, or any other equitable method, and collect  
20 assessments directly to fund the activities of the standard program.  
21 The authority shall adjust the assessments as necessary in order to  
22 ensure that all costs associated with the identified activities are  
23 covered. If a manufacturer has not met its financial obligations as  
24 determined by the authority under this section, the authority shall  
25 notify the department that the manufacturer is no longer participating  
26 in the standard plan.

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

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

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

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

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

7 (2) If practicable, the authority shall avoid creating new  
8 infrastructure already available through private industry in the 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. The board may periodically update the general operating plan as  
6 necessary, but must update the plan no less than once every four years.  
7 The general operating plan or updated plan must include a report on  
8 authority activities conducted since the commencement of authority  
9 operation or since the last reported general operating plan, whichever  
10 is more recent, including a statement of results achieved under the  
11 purposes of this chapter and the general operating plan. Upon  
12 adoption, the authority shall conduct its programs in observance of the  
13 objectives established in the general operating plan.

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

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

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

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

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

36 (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.

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