
Environment Committee

ESB 5699

Brief Description: Concerning electronic product recycling.

Sponsors: Senators Ericksen and Kline.

Brief Summary of Engrossed Bill

- Directs that electronic waste recycling programs allocate the responsibilities of participating manufacturers based on the manufacturers' sales volumes of covered electronic products, rather than based on the volumes of their electronic products that are collected.
- Amends the definition of manufacturer under the electronic waste recycling law so that an entity may assume the recycling program participation responsibilities of another entity meeting the definition of manufacturer.

Hearing Date: 3/20/13

Staff: Jacob Lipson (786-7196).

Background:

Since 2009 Washington's electronic waste recycling program, or E-Cycle, has allowed for the recycling of electronic waste at no direct cost to consumers. Electronic products covered by the E-Cycle law include televisions, monitors, computers, laptops, and tablets. Accessories such as computer keyboards are not recyclable through E-Cycle.

Manufacturer Responsibilities.

Under the E-Cycle law, manufacturers of covered electronic products are required to participate in an electronics recycling program. A manufacturer is defined as a person that, under its own brand name, previously or currently:

- manufactures an electronic product for sale in Washington;
- assembles an electronic product for sale in Washington using parts manufactured by others;

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- resells a product produced by other suppliers under their own brand name;
- imports an electronic product from someone who does not conduct business in the United States; or
- sells an electronic product acquired from an importer and registers in the importer's stead.

Manufacturers of co-branded products are also considered manufacturers under the E-Cycle law.

E-Cycle Recycling Programs.

The E-Cycle law allows for, but does not require, the establishment of multiple electronics recycling programs. However, to date, the only electronics recycling program that has been established is the standard plan operated by the Washington Materials Management and Financing Authority (WMMFA), a public body governed by a board of directors and whose creation was required by the E-Cycle law. If developed, an independent plan alternative to the WMMFA's standard plan would need to meet certain requirements, including that its membership be made up of manufacturers responsible for at least 5 percent of collected electronics.

The Department of Ecology (DOE) oversees certain electronic waste recycling activities, including reviewing program plans and operations, identifying manufacturers of covered electronic products, providing certain notices and information to manufacturers, and enforcing provisions of the E-Cycle law. The WMMFA and any other entities which operate electronics recycling programs under the E-Cycle law must file an annual report with the DOE.

E-Cycle Program Financing.

The E-Cycle law provides the WMMFA with multiple options for how plan operations may be funded. The WMMFA may apportion costs by using:

- the percentage by weight of electronic products sold in the state ("market share");
- the percentage by weight of electronic products collected through E-Cycle ("return share");
- some combination of market share and return share; or
- any other equitable method.

Under the operational plan that the WMMFA is currently implementing, manufacturers fund WMMFA operations through payments based on a combination of market share and return share. The relative weighting of manufacturers' market shares in financing WMMFA operations is scheduled to increase with each coming year, and starting in 2016, manufacturers' responsibility for financing program operations will be based entirely on market share.

In the event that manufacturers establish an independent alternative electronic waste recycling program, the WMMFA program and the independent program would each be responsible for collecting a percentage of the state's overall electronic waste. Each recycling program would be assigned an "equivalent share" by the DOE, based on the cumulative return share of the manufacturers participating in each recycling program. If a recycling program does not collect its assigned equivalent share of all collected electronics, the DOE will inventory the under-collecting program, and correspondingly compensate the over-collecting program.

To determine the "return share" attributable to each manufacturer participating in the program, the E-Cycle law establishes a sampling mechanism designed to produce statistically significant

information regarding the brand names collected for each type of electronic product, the number of electronic products collected by product type, and the weight of electronic products by brand name and product type.

Summary of Bill:

Manufacturer and Program Responsibilities Based on Market Share.

Beginning in the 2015 program year, certain aspects of manufacturer responsibilities and the structure of the recycling program will be based on manufacturers' market shares, rather than based on a combination of manufacturers' market shares and return shares. In advance of this change, certain definitions, sampling requirements, and other aspects of the E-Cycle law will begin changing after the 2014 program year.

Specific changes related to this transition to a market-share based recycling law include:

- the DOE is to determine manufacturers' market shares based on manufacturer-submitted information, which will be exempt from public disclosure;
- beginning in program year 2016, the apportionment of costs to manufacturers participating in the WMMFA program is to be based solely on market share, rather than a combination of market share, return share, or other equitable methods;
- if independent recycling programs are formed as an alternative to the WMMFA program, each program's equivalent share is to be calculated based on the total market share of manufacturers participating in each program, rather than the return share;
- after the 2014 program year, the DOE will no longer be required to conduct sampling of the brands of collected covered electronic products; and
- five of the eleven memberships on the WMMFA's governing board are allocated to the top ten brand owners by market share, rather than by return share.

Other Changes to E-Cycle.

The statutory definition of manufacturer is amended so that an entity may assume the recycling program participation responsibilities of another entity that meets the definition of manufacturer.

Recycling programs are required to provide collection services for covered electronic products, regardless of manufacturer.

The DOE is authorized to identify manufacturers and their successors in interest using product advertisements, in addition to return share and other data.

Appropriation: None.

Fiscal Note: Requested on March 14, 2013.

Effective Date: The bill takes effect on January 1, 2014.