
SENATE BILL 5699

State of Washington

63rd Legislature

2013 Regular Session

By Senators Billig, Ericksen, and Kline

Read first time 02/11/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to electronic product recycling; and amending RCW
2 70.95N.020 and 70.95N.030.

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

4 **Sec. 1.** RCW 70.95N.020 and 2006 c 183 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Authority" means the Washington materials management and
9 financing authority created under RCW 70.95N.280.

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

13 (3) "Board" means the board of directors of the Washington
14 materials management and financing authority created under RCW
15 70.95N.290.

16 (4) "Collector" means an entity licensed to do business in the
17 state that gathers unwanted covered electronic products from
18 households, small businesses, school districts, small governments, and

1 charities for the purpose of recycling and meets minimum standards that
2 may be developed by the department.

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

8 (6) "Covered electronic product" includes a cathode ray tube or
9 flat panel computer monitor having a viewable area greater than four
10 inches when measured diagonally, a desktop computer, a laptop or a
11 portable computer, or a cathode ray tube or flat panel television
12 having a viewable area greater than four inches when measured
13 diagonally that has been used in the state by any covered entity
14 regardless of original point of purchase. "Covered electronic product"
15 does not include: (a) A motor vehicle or replacement parts for use in
16 motor vehicles or aircraft, or any computer, computer monitor, or
17 television that is contained within, and is not separate from, the
18 motor vehicle or aircraft; (b) monitoring and control instruments or
19 systems; (c) medical devices; (d) products including materials intended
20 for use as ingredients in those products as defined in the federal
21 food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or the virus-
22 serum-toxin act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations
23 issued under those acts; (e) equipment used in the delivery of patient
24 care in a health care setting; (f) a computer, computer monitor, or
25 television that is contained within a clothes washer, clothes dryer,
26 refrigerator, refrigerator and freezer, microwave oven, conventional
27 oven or range, dishwasher, room air conditioner, dehumidifier, or air
28 purifier; or (g) hand-held portable voice or data devices used for
29 commercial mobile services as defined in 47 U.S.C. Sec. 332 (d)(1).

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

32 (8) "Curbside service" means a collection service providing
33 regularly scheduled pickup of covered electronic products from
34 households or other covered entities in quantities generated from
35 households.

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

37 (10) "Electronic product" includes a cathode ray tube or flat panel
38 computer monitor having a viewable area greater than four inches when

1 measured diagonally; a desktop computer; a laptop or a portable
2 computer; or a cathode ray tube or flat screen television having a
3 viewable area greater than four inches when measured diagonally.

4 (11) "Equivalent share" means the weight in pounds of covered
5 electronic products identified for an individual manufacturer under
6 this chapter as determined by the department under RCW 70.95N.200.

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

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

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

16 (a) Manufactures or has manufactured a covered electronic product
17 under its own brand names for sale in or into this state. However, a
18 licensor is not considered a manufacturer for the purposes of this
19 chapter;

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

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

27 (d) Manufactures or manufactured a cobranded product for sale in or
28 into this state that carries the name of both the manufacturer and a
29 retailer;

30 (e) Imports or has imported a covered electronic product into the
31 United States that is sold in or into this state. However, if the
32 imported covered electronic product is manufactured by any person with
33 a presence in the United States meeting the criteria of manufacturer
34 under (a) through (d) of this subsection, that person is the
35 manufacturer. For purposes of this subsection, "presence" means any
36 person that performs activities conducted under the standards
37 established for interstate commerce under the commerce clause of the
38 United States Constitution; or

1 (f) Sells at retail a covered electronic product acquired from an
2 importer that is the manufacturer as described in (e) of this
3 subsection, and elects to register in lieu of the importer as the
4 manufacturer for those products.

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

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

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

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

22 (19) "Premium service" means services such as at-location system
23 upgrade services provided to covered entities and at-home pickup
24 services offered to households. "Premium service" does not include
25 curbside service.

26 (20) "Processor" means an entity engaged in disassembling,
27 dismantling, or shredding electronic products to recover materials
28 contained in the electronic products and prepare those materials for
29 reclaiming or reuse in new products in accordance with processing
30 standards established by this chapter and by the department. A
31 processor may also salvage parts to be used in new products.

32 (21) "Product type" means one of the following categories:
33 Computer monitors; desktop computers; laptop and portable computers;
34 and televisions.

35 (22) "Program" means the collection, transportation, and recycling
36 activities conducted to implement an independent plan or the standard
37 plan.

- 1 (23) "Program year" means each full calendar year after the program
2 has been initiated.
- 3 (24) "Recycling" means transforming or remanufacturing unwanted
4 electronic products, components, and by-products into usable or
5 marketable materials for use other than landfill disposal or
6 incineration. "Recycling" does not include energy recovery or energy
7 generation by means of combusting unwanted electronic products,
8 components, and by-products with or without other waste. Smelting of
9 electronic materials to recover metals for reuse in conformance with
10 all applicable laws and regulations is not considered disposal or
11 energy recovery.
- 12 (25) "Retailer" means a person who offers covered electronic
13 products for sale at retail through any means including, but not
14 limited to, remote offerings such as sales outlets, catalogs, or the
15 internet, but does not include a sale that is a wholesale transaction
16 with a distributor or a retailer.
- 17 (26) "Return share" means the percentage of covered electronic
18 products by weight identified for an individual manufacturer, as
19 determined by the department under RCW 70.95N.190.
- 20 (27) "Reuse" means any operation by which an electronic product or
21 a component of a covered electronic product changes ownership and is
22 used for the same purpose for which it was originally purchased.
- 23 (28) "Small business" means a business employing less than fifty
24 people.
- 25 (29) "Small government" means a city in the state with a population
26 less than fifty thousand, a county in the state with a population less
27 than one hundred twenty-five thousand, and special purpose districts in
28 the state.
- 29 (30) "Standard plan" means the plan for the collection,
30 transportation, and recycling of unwanted covered electronic products
31 developed, implemented, and financed by the authority on behalf of
32 manufacturers participating in the authority.
- 33 (31) "Transporter" means an entity that transports covered
34 electronic products from collection sites or services to processors or
35 other locations for the purpose of recycling, but does not include any
36 entity or person that hauls their own unwanted electronic products.
- 37 (32) "Unwanted electronic product" means a covered electronic

1 product that has been discarded or is intended to be discarded by its
2 owner.

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

8 (34) "Licensor" means any person, in business or no longer in
9 business but having a successor in interest, who either directly
10 licenses or licenses through its affiliates names, images, or
11 intellectual property to a manufacturer of covered electronic products
12 but who does not personally manufacture, assemble, or resell covered
13 electronic products. A licensor may not be considered a manufacturer
14 of covered electronic products.

15 **Sec. 2.** RCW 70.95N.030 and 2006 c 183 s 3 are each amended to read
16 as follows:

17 (1) A manufacturer must participate in an independent plan or the
18 standard plan to implement and finance the collection, transportation,
19 and recycling of covered electronic products. A licensor is not
20 required to participate in an independent plan or standard plan.

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

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

34 (4) Nothing in this chapter changes or limits the authority of the
35 Washington utilities and transportation commission to regulate
36 collection of solid waste in the state of Washington, including

1 curbside collection of residential recyclable materials, nor does this
2 chapter change or limit the authority of a city or town to provide such
3 service itself or by contract pursuant to RCW 81.77.020.

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

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