

SENATE BILL REPORT

ESHB 1824

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, March 28, 2017

Title: An act relating to electronic product recycling.

Brief Description: Concerning electronic product recycling.

Sponsors: House Committee on Environment (originally sponsored by Representatives Peterson, Lovick, Kagi, Ortiz-Self, Tarleton, Robinson, Stanford, Ormsby and Doglio).

Brief History: Passed House: 3/01/17, 55-43.

Committee Activity: Energy, Environment & Telecommunications: 3/28/17, 3/28/17 [DPA, DNP].

Brief Summary of Amended Bill

- Requires public disclosure and clarifies state standards for contracting with electronic product recycling companies.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass as amended.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Carlyle, Ranking Minority Member; Hobbs, Ranker and Wellman.

Minority Report: Do not pass.

Signed by Senators Brown and Short.

Staff: Kelsey Morfitt (786-7407)

Background: The Department of Ecology (Ecology) oversees the E-Cycle program (Program), which was created in 2006 under the Electronic Products Recycling Act (E-Cycle Law). The Program provides free recycling of e-waste, which includes computers, monitors, laptops, and televisions. Households, charities, small businesses, school districts, and small governments may recycle e-waste under the Program. Ecology reviews all plans for compliance and operation and enforces the E-Cycle Law.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Washington Materials Management and Financing Authority (Authority) manages the Program. The Authority must devise and implement a standard plan for collecting, transporting, and recycling the electronic products of its participating manufacturers. All manufacturers of electronic products sold, or previously sold, in or into the state, must participate in a recycling plan. Manufacturers are automatically included as participants in the standard plan (Plan). If certain criteria are met, a manufacturer or group of manufacturers may implement their own independent plan. Manufacturers must finance the operations of the Authority.

The Authority is governed by a board of directors (Board) appointed by the Director of Ecology. The Board is comprised of 11 representatives from television and computer manufacturers: five members represent the top-ten brand owners; and six members represent other brands, including at least one retailer selling its private label. The Directors of Ecology and the Department of Commerce serve as ex-officio members.

The Department of Enterprise Services (DES) is responsible for policy development and oversight of the procurement of goods and services by all state agencies. Public procurement of goods and services is generally handled through a competitive solicitation and bidding process, with some exceptions like emergency, sole source, and direct buy. The award for the purchase or contract is given to the lowest responsive and responsible bidder.

The Authority and authorized parties must submit an annual report (report) to Ecology by March 1st for the preceding year. Ecology must review the report within 90 days of submission, and the report must be disclosed to the public. The report includes details about the collection services provided in the preceding year.

For the first violation of the E-Cycle Law, a \$1,000 fine is assessed. Subsequent violations are fined \$2,000 per violation.

Summary of Amended Bill: Ecology must periodically review the Plan and audit transporters, collectors, and processors in the Program. The Directors of Ecology and the Department of Commerce, or their designees, must attend a minimum of three board meetings each year.

The Authority must give priority to processors operating in the state. An e-waste transporter, collector, or processor may not be a preferred participant for a minimum of three years, if the company twice willfully violated performance standards related to exporting or the improper recycling, storage, or disposal of covered electronic products.

Additionally, the Authority must develop, finance, and implement the Program with full public disclosure.

EFFECT OF ENERGY, ENVIRONMENT & TELECOMMUNICATIONS COMMITTEE AMENDMENT(S):

- Clarifies suspensions for willful violations are prospective and modifies the violations that may result in a suspension.
- Removes reporting requirements for contracted rates and volumes.

- Removes provisions related to the deposit of penalties.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill adds transparency, strengthens and clarifies the program, and supports local businesses. The penalties and transparency help keep e-waste businesses ethical, and the penalties should not be retroactive. Additionally, the "two-strikes-and-you're-out" policy should be incorporated into the violation provisions. The Program was created as a instrumentality of the state and should be subject to state contract law at a minimum.

CON: This program was not intended to be transparent, and Total Reclaim paid its negotiated penalty. The Program is efficient and cost-effective as is.

OTHER: The provisions related to making rates public should be eliminated. E-waste volumes are currently appropriately allocated based on capacity and rates. The the "two-strikes-and-you're-out" provision should be limited to exporters and not standard processors who may make minor infractions.

Persons Testifying: PRO: Representative Strom Peterson, Prime Sponsor; Senator Marylyn Chase; Sean L. O Sullivan, Ace Metal Co; Jim Puckett, Basel Action Network/Executive Director; James Yoo, Ace Metal Co/Owner; Joshua Estes, Ace Metal Co/Interim General Manager; Gareth Perry, Ace Metal Co/Operations Manager.

CON: Craig Lorch, Total Reclaim.

OTHER: Laurie Davies, Department of Ecology; Charlie Brown, National Electrical Manufacturers Association.

Persons Signed In To Testify But Not Testifying: No one.