SENATE DOCKET, NO. 961 FILED ON: 1/17/2013

SENATE . . . . . No. 357

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to require producer responsibility for collection, reuse and recycling of discarded electronic products..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*
William N. Brownsberger	*Second Suffolk and Middlesex*
Jason M. Lewis	*31st Middlesex*
Denise Provost	*27th Middlesex*
Cleon H. Turner	*1st Barnstable*
Denise Andrews	*2nd Franklin*
David M. Rogers	*24th Middlesex*
Kay Khan	*11th Middlesex*
Sal N. DiDomenico	*Middlesex and Suffolk*
Michael Barrett	*Third Middlesex*
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
Gloria L. Fox	*7th Suffolk*
Carolyn C. Dykema	*8th Middlesex*
Cory Atkins	*14th Middlesex*
Sonia Chang-Diaz	*Second Suffolk*
Patricia D. Jehlen	*Second Middlesex*

Paul R. Heroux	*2nd Bristol*
Jennifer E. Benson	*37th Middlesex*
Thomas P. Conroy	*13th Middlesex*

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SENATE . . . . . No. 357

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 357) of James B. Eldridge, William N. Brownsberger, Jason M. Lewis, Denise Provost and other members of the General Court for legislation to require producer responsibility for collection reuse and recycling of discarded electronic products. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *352* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act to require producer responsibility for collection, reuse and recycling of discarded electronic products..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 21O the following chapter:-

CHAPTER 21P.

RECYCLING OF DISCARDED ELECTRONIC PRODUCTS.

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Additionally covered electronic product" means any of the following electronic products taken out of service from a person in this State regardless of purchase location: printers; stand-alone facsimile machine; video game console, video cassette recorder/player, digital video disk player, or similar video device; zip drive, external hard drive, or similar storage device; or scanner. To the extent allowed under federal and state laws and regulations, an additionally covered eligible electronic product that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste. The term does not include a covered television product or a covered computer product.

15 “Collection”, the aggregation of covered electronic products from households,
16 municipalities, the Commonwealth and any other political subdivision, and schools, including
17 the accumulation of covered electronic products at handling facilities, transfer stations, and solid
18 waste facilities, including all the activities up to the time the covered electronic products are
19 collected by a processor.

20 “Collector”, a person accepting covered electronic products from households,
21 municipalities, the Commonwealth and any other political subdivision, small businesses and
22 schools.

23 “Collector reimbursement”, the minimum per pound rate, as established by the
24 department, paid by a processor to a collector for all covered electronic products collected.

25 “Computer”, an electronic, magnetic, optical, electrochemical, or other high speed data
26 processing device performing logical, arithmetic, or storage functions, including a laptop or a
27 combined computer central processing unit and monitor; provided, however, that an automated
28 typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other
29 similar device shall not be considered a computer.

30 “Covered computer product” means a desktop or notebook computer, netbook, or
31 computer monitor, and printers, marketed and intended for use by a person, but does not include
32 a covered television device.

33 “Covered electronic product” means a covered computer product, a covered television
34 product, or additionally covered electronic product collected for reuse or recycling by collectors
35 and processors eligible for collector reimbursement and processor reimbursement through the
36 producer reimbursement system. “Covered electronic product,” “covered computer product”,
37 “covered television product,” or “additionally covered electronic product” do not include any of
38 the following:

39 (i) A covered electronic product that is a part of a motor vehicle or any component
40 part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer,
41 including replacement parts for use in a motor vehicle.

42 (ii) A covered electronic product that is functionally or physically a part of, or
43 connected to, or integrated within equipment or a system designed and intended for use in an
44 industrial, governmental, commercial, research and development, or medical setting, including
45 but not limited to diagnostic, monitoring, control or medical products (as defined under the
46 Federal Food, Drug, and Cosmetic Act), or equipment used for security, sensing, monitoring,
47 anti-terrorism, emergency services purposes or equipment designed and intended primarily for
48 use by professional users.

(iii) A covered electronic product that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment.

(iv) Telephones of any type, including mobile phones.

(v) A personal digital assistant (PDA).

(vi) Global positioning systems (GPS).

"Covered Television Product" means any electronic product that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of 9 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a person primarily for personal purposes. The term does not include a covered computer product or additionally covered electronic product.

"Department", the department of environmental protection.

"Desktop computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, and storage functions for general purpose needs which are met through interaction with a number of software programs contained therein, which is not designed to exclusively perform a specific type of limited or specialized application. Human interface with a desktop computer is achieved through a standalone keyboard, stand-alone monitor or other display unit, and a stand-alone mouse or other pointing device, and is designed for a single user. A desktop computer has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor.

"Market share", a television producer's national sales of televisions expressed as a percentage of the total of all television producers' national sales based on the best available public data.

"Monitor", a video display device without a tuner that can display pictures and sound and is used with a computer.

"Netbook" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs which are met through interaction with a number of software programs contained therein, which is not designed to exclusively perform a specific type of limited or specialized application. Human interface with a netbook is achieved through a keyboard, video display greater than 4" in size, and mouse or other pointing device, all of which are contained within the construction of

84 the unit which comprises the netbook, and can be carried as one unit by an individual. Netbook
85 can use external, internal, or batteries for a power source. Netbook does not include a portable
86 handheld calculator, or a portable digital assistant or similar specialized device.

87 “Notebook computer” means an electronic, magnetic, optical, electrochemical, or other
88 high-speed data processing device performing logical, arithmetic, or storage functions for
89 general purpose needs which are met through interaction with a number of software programs
90 contained therein, which is not designed to exclusively perform a specific type of limited or
91 specialized application. Human interface with a notebook computer is achieved through a
92 keyboard, video display greater than 4" in size, and mouse or other pointing device, all of which
93 are contained within the construction of the unit which comprises the notebook computer, and
94 can be carried as one unit by an individual. Supplemental standalone interface devices typically
95 can also be attached to the notebook computer. Notebook computers can use external, internal, or
96 batteries for a power source. Notebook computer does not include a portable handheld calculator,
97 or a portable digital assistant or similar specialized device. A notebook computer is sometimes
98 referred to as a laptop computer.

99 “Orphan waste”, a covered electronic product, the producer of which cannot be identified
100 or is no longer in business and has no successor in interest.

101 “Person”, a natural person, corporation, association, partnership, government body or
102 other legal entity.

103 “Printer” means desktop printers, multifunction printer copiers, and printer/fax
104 combinations taken out of service from a person that are designed to reside on a work surface,
105 and include various print technologies, including without limitation laser and LED
106 (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or
107 "all-in-one" devices that perform different tasks, including without limitation copying, scanning,
108 faxing, and printing. Printers do not include floor-standing printers, printers with optional floor
109 stand, point of sale (POS) receipt printers, household printers such as a calculator with printing
110 capabilities or label makers, or non-stand-alone printers that are embedded into products that are
111 not CEDs

112 “Processor”, a person registered with the department to receive electronic
113 products from collectors for the purpose of sorting, weighing and reusing or recycling or
114 shipping offsite for reuse or recycling in accordance with minimum performance requirements
115 established by the department.

116 “Processor reimbursement”, the minimum per pound rate, as established by the
117 department, paid by a producer to a processor for the producer’s covered electronic products and
118 the producer’s share of orphan waste as determined by the department.

119 “Producer”, any person who: (a) has a physical presence and legal assets in the United
120 States of America and (1) manufactures or manufactured a covered electronic product under its
121 own brand or label; (2) sells or sold under its own brand or label a covered electronic product
122 produced by other suppliers; or (3) owns a brand that it licenses or licensed to another person for
123 use on a covered electronic product; or (b) imports or imported a covered electronic product into
124 the United States that was manufactured by a person without a presence in the United States of
125 America; (c) sells at retail a covered electronic product acquired from an importer that is the
126 manufacturer as described in subsection (b) and elects to register in lieu of the importer; or (d)
127 assumes the responsibilities and obligations of a producer under this Act.

128 “Program year”, a full calendar year beginning on or after January 1, 2015.

129 “Recycling”, to recover materials or by-products which are: (a) reused; (b) used as an
130 ingredient or a feedstock in an industrial or manufacturing process to make a marketable product;
131 or (c) used in a particular function or application as an effective substitute for a commercial
132 product or commodity; provided, however, that recycle shall not mean to recover energy from
133 the combustion of a material.

134 “Retailer”, shall include, but shall not be limited to, a person or a producer that sells new
135 covered electronic products directly to a person through any means including, without limitation,
136 transactions conducted through sales outlets and catalogs, but not including wholesale
137 transactions with a distributor or other retailer.

138 “Return share”, a percentage of covered electronic products other than televisions
139 collected through processors as calculated by dividing the total weight of covered electronic
140 products other than televisions of that producer’s brands by the total weight of covered electronic
141 products other than televisions for all producers’ non-orphaned brands.

142 “Reuse”, any operation by which an electronic product or component of an electronic
143 product changes ownership but retains its form and function and is used for the same purpose for
144 which it was originally purchased.

145 “Sale” or “sell”, any transfer for valuable consideration of title including, but not limited
146 to, transactions conducted through sales outlets, or through catalogs, and excluding commercial
147 financing or leasing.

148 “Television”, any telecommunication system device that can broadcast or receive moving
149 pictures and sound over a distance and includes a television tuner or a display device peripheral
150 to a computer that contains a television tuner.

151 Section 2. No person shall engage in business as a producer unless he is registered with
152 the department pursuant to section 3.

153 Section 3. (a) Every producer seeking to engage in business in the commonwealth shall
154 file an application, accompanied by the producer registration fee, with the department requesting
155 registration as a producer. Said application shall be made on a form to be furnished by the
156 department, and shall include, without limitation, the following information: (1) the name and
157 contact information of the applicant; (2) the applicant's brand names of covered electronic
158 products, including all brand names sold in the commonwealth in the past, all brand names
159 currently being sold in the commonwealth, and all brand names for which the applicant is legally
160 responsible; (3) the method or methods of sale used in the commonwealth; (4) a baseline or a set
161 of baselines that describe any efforts to design covered electronic products for reuse or recycling
162 and goals and plans for further increasing design for reuse and recycling; and (5) a description of
163 any collection, consolidation or processing services utilized to recover, reuse, or recycle the
164 applicant's products. The department shall, within 60 days, review the application for
165 registration. If said application satisfies the requirements of this section, the department shall
166 register said applicant as a producer and shall forthwith mail to him a certificate to that effect. If
167 said application fails to satisfy the requirements of this section the producer shall, within 30
168 days, file with the department a revised application addressing the requirements noted by the
169 department.

170 (b) The department may keep information submitted pursuant to this section
171 confidential as provided by section 10 of chapter 66 of the General Laws. The department will
172 publish on its website the following information: (1) the name and contact information of the
173 producer submitting the application and (2) the producer's brand names of covered electronic
174 products.

175 Section 4. (a) Registered producers shall register with the department for a specified
176 registration period. Such applications shall be submitted to the department by the date specified
177 by the department together with a renewal fee as shall be established by the department. After
178 verification of the facts stated on the application, the department shall issue a registration. Any
179 holder of a registration who fails to file a renewal application within 60 days after notification by
180 the department that his registration has expired shall, prior to engaging in business as a producer
181 within the commonwealth, be required to register anew and pay a late fee in addition to said
182 renewal fee.

183 (b) The department shall use twelve months as a specified registration period for the first
184 three registration periods. After three registration periods, the department may allow producers
185 to register for a period not to exceed thirty-six months.

186 Section 5. (a) Producers of electronic products shall reimburse collectors for their share
187 of product received at the processor.

188 (b) A producer who has sold or who sells covered electronic products other than
189 televisions in the commonwealth shall bear the financial responsibility for the collection,

190 transportation, and reuse or recycling of said covered electronic products received by processors,
191 including their return share of orphan waste as determined by the department.

192 (c) A producer of televisions shall have the financial responsibility for the collection,
193 transportation and reuse or recycling of televisions discarded in the commonwealth, based on the
194 television manufacturer's market share.

195 (d) A producer may also collect its covered electronic products for reuse or recycling by
196 establishing a collection program, either individually or in cooperation with other producers, to
197 collect these discarded products as established in this chapter. A producer establishing an
198 independent collection program for reuse or recycling either individually or in cooperation with
199 other producers shall recover 1 or more electronic products. A producer establishing an
200 independent recycling program either individually or in cooperation with other producers shall
201 meet either of the following criteria to be able to continue the program. In order for an
202 independent recycling program to maintain good standing with the department, the program must
203 either of the following:

204 (i) include convenient, staffed collection sites in not less than eight counties in the
205 commonwealth, at least one collection site within every municipality within the commonwealth
206 with a population of at least 50,000, and be open for collections for no less than 160 hours per
207 year. A collection site for a county may be the same as a collection site for a city in the county.

208 (ii) collect no less than 100,000 pounds, or higher as determined by the
209 department, of covered electronic products cumulatively from all collections sites or collection
210 methods.

211 The department shall provide a report no later than December 31, 2015, to the Joint
212 Committee on Environment, Natural Resources, and Agriculture and the House and Senate
213 Committees on Ways and Means on independent collection programs. This report shall include,
214 but not be limited to, the effectiveness of the independent collection program requirements,
215 independent collection program compliance, and collection rates of independent programs.

216 A producer establishing an independent recycling program either individually or in
217 cooperation with other producers will register as a collector pursuant to section 7 of this chapter
218 or a processor pursuant to section 10 of this chapter; however, an additional registration fee will
219 not be required.

220 A producer establishing an independent recycling program either individually or in
221 cooperation with other producers shall provide information specified by the department
222 describing the locations for the collection or return of the producer's product, including
223 information on opportunities and locations for donation of the product for reuse via, without
224 limitation: (1) a toll-free telephone number; (2) a website; (3) information included in or on the
225 packaging; or (4) written information provided at the point of sale.

226 A producer establishing an independent collection program shall submit an annual report
227 to the department that includes at a minimum the following information for the previous program
228 year as well as any additional information required by the department:

229 (1) distinguishing the total weight of each type of covered electronic product
230 collected for recycling;

231 (2) detailing the total number of items by each type of covered electronic product
232 collected for reuse or refurbishment;

233 (3) a description of the plan's education, outreach, or other marketing efforts to
234 promote collection of covered electronic products;

235 (4) a description of management practices to transport and recycle discarded covered
236 electronic products; and

237 (5) any additional information deemed necessary by the department.

238 A producer establishing an independent collection program for reuse or recycling either
239 individually or in cooperation with other producers shall weigh the covered electronic products
240 collected and shall annually submit a statement certifying to the department the total weight of
241 electronic products received and the weight of orphan waste received in the preceding program
242 year.

243 The department, in determining the producer's return share, shall take into account
244 electronic products voluntarily collected by the producer.

245 A producer establishing an independent collection program for reuse or recycling either
246 individually or in cooperation with other producers shall not charge a fee for collecting,
247 transporting or recycling electronic products.

248 A producer establishing an independent television recycling program either individually
249 or in cooperation with other producers that collects in excess of its market share or cumulative
250 market share allocation assigned by the Department will receive a one pound credit for each
251 pound by which they exceed the allocation. This credit may be used to count toward the market
252 share allocation during the following three program years or may be transferred for consideration
253 to another independent collection program for another producer to count toward its market share
254 allocation during the next three program years. The credits earned under this clause may only
255 be used toward no more than twenty-five percent of a producer's market share allocation during
256 any given program year. The total number of pounds processed by each producer, including
257 credits that would be carried over, must be included in the report to the Department and used by
258 the Department in calculating the target for the following program year.

259 Section 6. No person shall engage in business as a collector unless he is registered with
260 the department pursuant to section 7.

261 Section 7. (a) Every collector seeking to engage in business in the commonwealth shall
262 file an application, accompanied by the collector registration fee, with the department requesting
263 registration as a collector. Said application shall be made on a form to be furnished by the
264 department, and shall include, without limitation, the following information: (1) the name; (2)
265 the address; (3) the telephone number; and (4) the location of the business. The department shall,
266 within 60 days, review the application for registration. If said application satisfies the
267 requirements of this section, the department shall register said applicant as a collector and shall
268 forthwith mail to him a certificate to that effect. If said application fails to satisfy the
269 requirements of this section the collector shall, within 30 days, file with the department a revised
270 application addressing the requirements noted by the department.

271 (b) If a municipality applies to be a collector under this statute, the statute will apply to
272 them except no registration or renewal fee will be required. Likewise no registration or renewal
273 fee will be required from collectors who send units primarily to reuse rather than recycling.

274 (c) A collector shall: (1) contract with a registered processor or processors to receive the
275 covered electronic products collected by the collector; (2) make information available to the
276 public that describes where and how to return covered electronic products for reuse or recycling,
277 and dispose of covered electronic products; (3) accept all covered electronic products and ensure
278 that said products are transported by or delivered to a registered processor; and (4) demonstrate
279 compliance with the department rules and regulations and the United States Environmental
280 Protection Agency's Responsible Recycling Guidelines for Materials Management as issued and
281 available on the United States Environmental Protection Agency's Internet website in addition to
282 any other requirements mandated by federal or state law. A collector may limit the number of
283 covered electronic products delivered at a given time by any customer to no more than 5.

284 (d) A collector shall not: (1) charge a fee to persons for the collection or recycling of
285 covered electronic products; or (2) knowingly accept covered electronic products imported into
286 the commonwealth for the purpose of recycling or discard.

287 (e) Only an entity registered as a collector with the department may act as a collector in a
288 plan. All covered electronic products received by a registered collector must be submitted to a
289 plan. Fully functioning computers that are received by a registered collector in working order
290 may be sold or donated as whole products by the collector for reuse. Computers that require
291 repair to make them a fully functioning unit may only be repaired on-site at the collector's place
292 of business by the registered collector for reuse according to its original purpose.

293 (f) Registered collectors may use whole parts amassed from collected computers or new
294 parts for making repairs as long as there is a part-for-part exchange with nonfunctioning
295 computers submitted to a plan.

296 (g) Registered collectors may not include computers that are dispersed for reuse in the
297 weight totals for compensation by the plan.

298 (h) Registered collectors must maintain a record of computers sold or donated by the
299 collector for a period of three years.

300 (i) Registered collectors must display a notice at the point of collection that computers
301 received by the collector may be repaired and sold or donated as a fully functioning computer
302 rather than submitted to a processor for recycling

303 (j) The department may conduct site visits of all registered collectors that reuse or
304 refurbish computers and who have an agreement with the department, collector, or producer to
305 provide collection services. The department may, for cause, review records and conduct
306 investigations regarding a violation of this section, including but not limited to Section 14 (d) or
307 (e).

308 Section 8. Collectors shall register with the department every 3 years. Such applications
309 shall be submitted to the department by the date specified by the department together with a
310 renewal fee as shall be established by the department. After verification of the facts stated on the
311 application, the department shall issue a registration, which shall expire in 3 years. Any holder of
312 a registration who fails to file a renewal application within 60 days after notification by the
313 department that his registration has expired shall, prior to engaging in business as a collector
314 within the commonwealth, be required to register anew and pay a late fee in addition to said
315 renewal fee.

316 Section 9. No person shall engage in business as a processor unless he is registered with
317 the department pursuant to section 10.

318 Section 10. (a) Every processor seeking to engage in business in the commonwealth shall
319 file an application, accompanied by appropriate processor registration fee, with the department
320 requesting registration as a processor. Said application shall be made on a form to be furnished
321 by the department, and shall include, without limitation, the following information: (1) the name;
322 (2) the address; (3) the telephone number; and (4) the location of the business of the processor's
323 business. The department shall, within 60 days, review the application for registration. If said
324 application satisfies the requirements of this section, the department shall register said applicant
325 as a processor and shall forthwith mail to him a certificate to that effect. If said application fails
326 to satisfy the requirements of this section the processor shall, within 30 days, file with the
327 department a revised application addressing the requirements noted by the department.

328 (b) A processor shall: (1) be responsible for sorting all covered electronic products
329 received from a participating collector with whom the processor has a contract; (2) weigh the
330 total amount of covered electronic products received from a participating collector and reimburse
331 said collector; provided, however, that said collector reimbursement shall be due within 30 days

332 of pick-up; (3) sort, by producer, and weigh all covered electronic products other than televisions
333 received from collectors; (4) weigh all televisions received from collectors; (5) either repair,
334 refurbish, remanufacture, or recycle on-site or ship covered electronic products offsite for reuse
335 or recycling in accordance with the minimum performance requirements established by the
336 department; (6) be certified to "e-Stewards Standard for Responsible Recycling and Reuse of
337 Electronics," the U.S. Environmental Protection Agency's "Responsible Recycling" (R2)
338 Standard, or other environmental performance and accountability certification standards as
339 determined to be at least equivalent to e-Stewards or R2 by the department.

340 (7) submit an invoice for producer reimbursement to each producers whose waste the
341 processor has handled; and (8) annually submit a report to the department which shall include
342 without limitation: (i) the total aggregate weight of covered electronic products processed
343 pursuant to this chapter in the previous program year; (ii) the weight, differentiated by producer,
344 of covered electronic products processed pursuant to this chapter in the previous program year;
345 (iii) the total amount of orphan waste processed pursuant to this chapter in the previous program
346 year; and (iv) any other information to help track, monitor and evaluate the management of
347 covered electronic products, as determined by the department.

348 (c) A processor shall not charge a fee for accepting, sorting, weighing, processing for
349 reuse or recycling a covered electronic product for which the processor receives compensation
350 under the provisions of this section.

351 Section 11. Processors shall register with the department every 3 years. Such application
352 shall be submitted to the department by the date specified by the department together with a
353 renewal fee as shall be established by the department. After verification of the facts stated on the
354 application, the department shall issue a registration, which shall expire in 3 years. Any holder of
355 a registration who fails to file a renewal application within 60 days after notification by the
356 department that his registration has expired shall, prior to engaging in business as a processor
357 within the commonwealth, be required to register anew and pay a late fee in addition to said
358 renewal fee.

359 Section 12. The fee for a collector registration, a processor registration and a producer
360 registration, or for any annual renewal thereof, shall be determined every three years by the
361 department, but in no case shall any registration or renewal fee exceed $5000.

362 Section 13. (a) The department shall annually: (1) determine the return share for each
363 program year for each producer of electronic products other than televisions by dividing the
364 weight of covered electronic products identified for each producer by the total weight of covered
365 electronic products identified for all producers; provided further, that said calculation shall be
366 based on the reports generated by processors of covered electronic products in the
367 commonwealth; provided further, that for the first program year, the return share of covered
368 electronic products identified for each producer shall be based on the best available public return

369 share data from the United States, including data from other states, for covered electronic
370 products from persons; provided further, that for the second and subsequent program years, the
371 return share of covered electronic products identified for each producer shall be based on the
372 previous year's reported data as described herein; and provided further, that the department shall
373 use the return share for each producer to allocate financial responsibility for orphan waste; (2)
374 determine, based on each producer's return share, each producer's share of responsibility for the
375 orphan waste collected in the commonwealth; provided, however, that each producer's return
376 share of orphan waste shall be equivalent to its percentage of return share for non-orphan
377 covered electronic products, multiplied by the total amount of orphan waste collected in the
378 program year; and provided further, that the department, in determining the producer's orphan
379 waste share, may take into account electronic products, including orphan waste, voluntarily
380 collected by the producer; (3) determine the market share allocation for each television producer
381 by determining the total weight of televisions recycled in the previous year, multiplied by the
382 market share for that producer; provided, however, that in the first program year, the market
383 share identified for each television producer shall be based on the best available data regarding
384 the total number of televisions sold in the commonwealth for the previous calendar year; (4)
385 maintain a list of producers registered pursuant to this chapter; and (5) conduct periodic audits of
386 processors and collectors at a frequency determined by the department, to assure accuracy of
387 reporting and billing.

388 (b) The department shall adopt and may from time to time amend rules and regulations,
389 and the commissioner may issue orders, to enforce the provisions of this chapter. Said
390 regulations shall include, but not be limited to, establishing, as a maximum number not higher
391 than twelve, the number of times a year payment from producers to collectors and processors be
392 made, adjudicatory procedures for denied revised applications and minimum performance
393 requirements for collection and processing of covered electronic products. Any person,
394 including any political subdivision of the commonwealth who violates this chapter, or any order
395 issued pursuant thereto, or any rule or regulation promulgated hereunder shall be subject to a fine
396 of not more than twenty-five thousand dollars for each such violation. Each day each such
397 violation occurs or continues shall be deemed a separate offense. These penalties shall be in
398 addition to any other penalties that may be prescribed by law.

399 (c) Beginning one year after this act takes effect and annually thereafter, the department
400 shall submit a report to the House Committee on Ways and Means, the Senate Committee on
401 Ways and Means, and the Joint Committee on Environment, Natural Resources and Agriculture
402 that includes information regarding the previous program year. The information shall include,
403 but is not limited to, (1) the total administrative cost to the state government, (2) the total
404 administrative cost to local governments, (3) a description of the incentive for manufacturer
405 collection, and (4) a description of the education, outreach, or other marketing efforts conducted
406 by the state or local governments to promote collection of covered electronic products.

407 Section 14. (a) No person shall sell covered electronic products from producers not
408 registered pursuant to this chapter. A retailer shall not be in violation of this subsection if, at
409 time of purchase from producer, the producer was not in violation of this Chapter. This
410 subsection shall not apply to used electronic products that are reused.

411 (b) No person shall offer for sale an electronic product unless a visible, permanent label
412 clearly identifying the producer of that product is affixed to said electronic product.

413 (c) All retailers shall provide information describing where and how to recycle an
414 electronic product provided by the producer pursuant to this act.

415 (d) No person shall knowingly dispose of any electronic product except as provided in
416 this chapter.

417 (e) No person shall import a covered electronic product into the commonwealth with the
418 intent of recycling or discarding said product; provided further, that any covered electronic
419 product so imported shall not be eligible for reimbursement under the provisions of this chapter.

420 Section 15. The department shall be charged with the enforcement of sections 1 to 14,
421 inclusive. If any person refuses to obey a decision of the department the attorney general shall,
422 upon request of the department, file a petition for the enforcement of such decision in the
423 superior court for Suffolk County or for the county in which the defendant resides or has a place
424 of business. After hearing, the court shall order the enforcement of such decision or any part
425 thereof, if legally and properly made by the department.

426 Section 16. The department may participate in the establishment of a regional multistate
427 organization or compact to assist in carrying out the requirements of this chapter.

428 Section 17. (a) There shall be in the Department an advisory commission, chaired by the
429 Commissioner of the Department or his designee, for electronic waste. The commission shall
430 include the Senate chair of the Joint Committee on Environment, Natural Resources, and
431 Agriculture or his designee, the House chair of the Joint Committee on Environment, Natural
432 Resources, and Agriculture or his designee. The advisory commission shall also include the
433 following individuals to be appointed by the Secretary of Energy and Environmental Affairs: one
434 individual representing covered television product manufacturers, one individual representing
435 processors of covered electronic products, one individual representing a trade association of
436 covered computer product manufacturers or covered television product manufacturers , one
437 individual representing covered computer manufacturers, one individual representing retailers of
438 covered electronic products, one representative of the Massachusetts Municipal Association, one
439 representative of the Massachusetts Product Stewardship Council, and one individual
440 representing a statewide conservation organization.

441 (b) Appointments to the advisory commission shall be made not later than 30 days after
442 the effective date of this statute. If a vacancy occurs on the commission, the vacancy shall be
443 filled within 30 days.

444 (c) Said advisory commission shall have the following duties: (1) It shall advise the
445 Department on policy and program development under this section, specifically regarding
446 performance standards; (2) It shall review the registration and renewal fees for producers,
447 collectors and processors, and shall make recommendations to the commissioner relative thereto;
448 and (3) It shall make recommendations to the Joint Committee on Environment, Natural
449 Resources, and Agriculture on recommendations of amending the definition of electronic product
450 under this statute to cover other electronic products, including but not limited to medical
451 equipment.

452 (d) The advisory commission shall meet at least four times a year and shall convene
453 special meetings at the call of the Commissioner. A written record of all meetings of the
454 committee shall be maintained by the Department. Members of the commission shall serve
455 without compensation. The members of the commission representing the Department or the
456 General Court shall serve without additional compensation.

457 SECTION 2. Notwithstanding any general or special law to the contrary and unless
458 otherwise specified herein, this act shall take effect January 1, 2014.