

**SENATE . . . . . No. 352**

**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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James B. Eldridge</i>	
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Marc R. Pacheco</i>	
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Patricia D. Jehlen</i>	
<i>Sonia Chang-Diaz</i>	
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>Susan C. Fargo</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Daniel A. Wolf</i>	
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>William N. Brownsberger</i>	

<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>

**SENATE . . . . . No. 352**

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By Mr. Eldridge, petition (accompanied by bill, Senate, No. 352) of Wolf, Story, Harrington and other members of the General Court for legislation to require producer responsibility for collection reuse and recycling of discarded electronic products [Joint Committee on Environment, Natural Resources and Agriculture].

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 4374 OF 2009-2010.]

**The Commonwealth of Massachusetts**

—————  
**In the Year Two Thousand Eleven**  
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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:*

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

3 CHAPTER 21O.

4 RECYCLING OF DISCARDED ELECTRONIC PRODUCTS.

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

7 "Additionally covered electronic product" means any of the following electronic products  
8 taken out of service from a person in this State regardless of purchase location: printers; stand-

9 alone facsimile machine; video game console, video cassette recorder/player, digital video disk  
10 player, or similar video device; zip drive, external hard drive, or similar storage device; or  
11 scanner. To the extent allowed under federal and state laws and regulations, an additionally  
12 covered eligible electronic product that is being collected, recycled, or processed for reuse is not  
13 considered to be hazardous waste, household waste, solid waste, or special waste. The term does  
14 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, and schools.

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

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

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

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

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

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

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

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

52 (v) A personal digital assistant (PDA).

53 (vi) Global positioning systems (GPS).

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

63 ?Department?, the department of environmental protection.

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

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

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

77           ?Netbook? means an electronic, magnetic, optical, electrochemical, or other high-speed  
78 data processing device performing logical, arithmetic, or storage functions for general purpose  
79 needs which are met through interaction with a number of software programs contained therein,  
80 which is not designed to exclusively perform a specific type of limited or specialized application.  
81 Human interface with a netbook is achieved through a keyboard, video display greater than 4" in  
82 size, and mouse or other pointing device, all of which are contained within the construction of  
83 the unit which comprises the netbook, and can be carried as one unit by an individual. Netbook  
84 can use external, internal, or batteries for a power source. Netbook does not include a portable  
85 handheld calculator, or a portable digital assistant or similar specialized device.

86           ?Notebook computer? means an electronic, magnetic, optical, electrochemical, or other  
87 high-speed data processing device performing logical, arithmetic, or storage functions for  
88 general purpose needs which are met through interaction with a number of software programs  
89 contained therein, which is not designed to exclusively perform a specific type of limited or  
90 specialized application. Human interface with a notebook computer is achieved through a  
91 keyboard, video display greater than 4" in size, and mouse or other pointing device, all of which  
92 are contained within the construction of the unit which comprises the notebook computer, and  
93 can be carried as one unit by an individual. Supplemental standalone interface devices typically

94 can also be attached to the notebook computer. Notebook computers can use external, internal, or  
95 batteries for a power source. Notebook computer does not include a portable handheld calculator,  
96 or a portable digital assistant or similar specialized device. A notebook computer is sometimes  
97 referred to as a laptop computer.

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

100           ?Person?, a natural person, corporation, association, partnership, government body or  
101 other legal entity.

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

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

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

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

127           ?Program year?, a full calendar year beginning on or after January 1, 2013.

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

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

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

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

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

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

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

152           Section 3. (a) Every producer seeking to engage in business in the commonwealth shall  
153 file an application, accompanied by the producer registration fee, with the department requesting  
154 registration as a producer. Said application shall be made on a form to be furnished by the  
155 department, and shall include, without limitation, the following information: (1) the name and  
156 contact information of the applicant; (2) the applicant's brand names of covered electronic  
157 products, including all brand names sold in the commonwealth in the past, all brand names  
158 currently being sold in the commonwealth, and all brand names for which the applicant is legally

159 responsible; (3) the method or methods of sale used in the commonwealth; (4) a baseline or a set  
160 of baselines that describe any efforts to design covered electronic products for reuse or recycling  
161 and goals and plans for further increasing design for reuse and recycling; and (5) a description of  
162 any collection, consolidation or processing services utilized to recover, reuse, or recycle the  
163 applicant's products. The department shall, within 60 days, review the application for  
164 registration. If said application satisfies the requirements of this section, the department shall  
165 register said applicant as a producer and shall forthwith mail to him a certificate to that effect. If  
166 said application fails to satisfy the requirements of this section the producer shall, within 30  
167 days, file with the department a revised application addressing the requirements noted by the  
168 department.

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

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

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

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

186 (b) A producer who has sold or who sells covered electronic products other than  
187 televisions in the commonwealth shall bear the financial responsibility for the collection,  
188 transportation, and reuse or recycling of said covered electronic products received by processors,  
189 including their return share of orphan waste as determined by the department.

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

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

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

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

208 The department shall provide a report no later than December 31, 2013, to the Joint  
209 Committee on Environment, Natural Resources, and Agriculture and the House and Senate  
210 Committees on Ways and Means on independent collection programs. This report shall include,  
211 but not be limited to, the effectiveness of the independent collection program requirements,  
212 independent collection program compliance, and collection rates of independent programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

258 Section 7. (a) Every collector seeking to engage in business in the commonwealth shall  
259 file an application, accompanied by the collector registration fee, with the department requesting  
260 registration as a collector. Said application shall be made on a form to be furnished by the  
261 department, and shall include, without limitation, the following information: (1) the name; (2)  
262 the address; (3) the telephone number; and (4) the location of the business. The department shall,  
263 within 60 days, review the application for registration. If said application satisfies the

264 requirements of this section, the department shall register said applicant as a collector and shall  
265 forthwith mail to him a certificate to that effect. If said application fails to satisfy the  
266 requirements of this section the collector shall, within 30 days, file with the department a revised  
267 application addressing the requirements noted by the department.

268 (b) If a municipality applies to be a collector under this statute, the statute will apply to  
269 them except no registration or renewal fee will be required.

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

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

283 (e) Only an entity registered as a collector with the department may act as a collector in a  
284 plan. All covered electronic products received by a registered collector must be submitted to a  
285 plan. Fully functioning computers that are received by a registered collector in working order

286 may be sold or donated as whole products by the collector for reuse. Computers that require  
287 repair to make them a fully functioning unit may only be repaired on-site at the collector's place  
288 of business by the registered collector for reuse according to its original purpose.

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

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

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

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

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

304 Section 8. Collectors shall register with the department every 3 years. Such applications  
305 shall be submitted to the department by the date specified by the department together with a  
306 renewal fee as shall be established by the department. After verification of the facts stated on the

307 application, the department shall issue a registration, which shall expire in 3 years. Any holder of  
308 a registration who fails to file a renewal application within 60 days after notification by the  
309 department that his registration has expired shall, prior to engaging in business as a collector  
310 within the commonwealth, be required to register anew and pay a late fee in addition to said  
311 renewal fee.

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

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

324 (b) A processor shall: (1) be responsible for sorting all covered electronic products  
325 received from a participating collector with whom the processor has a contract; (2) weigh the  
326 total amount of covered electronic products received from a participating collector and reimburse  
327 said collector; provided, however, that said collector reimbursement shall be due within 30 days  
328 of pick-up; (3) sort, by producer, and weigh all covered electronic products other than televisions

329 received from collectors; (4) weigh all televisions received from collectors; (5) either repair,  
330 refurbish, remanufacture, or recycle on-site or ship covered electronic products offsite for reuse  
331 or recycling in accordance with the minimum performance requirements established by the  
332 department; (6) demonstrate compliance with the department rules and regulations and the  
333 United States Environmental Protection Agency's Responsible Recycling Guidelines for  
334 Materials Management as issued and available on the United States Environmental Protection  
335 Agency's Internet website in addition to any other requirements mandated by federal or state  
336 law; (7) submit an invoice for producer reimbursement to each producers whose waste the  
337 processor has handled; and (8) annually submit a report to the department which shall include  
338 without limitation: (i) the total aggregate weight of covered electronic products processed  
339 pursuant to this chapter in the previous program year; (ii) the weight, differentiated by producer,  
340 of covered electronic products processed pursuant to this chapter in the previous program year;  
341 (iii) the total amount of orphan waste processed pursuant to this chapter in the previous program  
342 year; and (iv) any other information to help track, monitor and evaluate the management of  
343 covered electronic products, as determined by the department.

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

347 Section 11. Processors shall register with the department every 3 years. Such application  
348 shall be submitted to the department by the date specified by the department together with a  
349 renewal fee as shall be established by the department. After verification of the facts stated on the  
350 application, the department shall issue a registration, which shall expire in 3 years. Any holder of  
351 a registration who fails to file a renewal application within 60 days after notification by the

352 department that his registration has expired shall, prior to engaging in business as a processor  
353 within the commonwealth, be required to register anew and pay a late fee in addition to said  
354 renewal fee.

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

358 Section 13. (a) The department shall annually: (1) determine the return share for each  
359 program year for each producer of electronic products other than televisions by dividing the  
360 weight of covered electronic products identified for each producer by the total weight of covered  
361 electronic products identified for all producers; provided further, that said calculation shall be  
362 based on the reports generated by processors of covered electronic products in the  
363 commonwealth; provided further, that for the first program year, the return share of covered  
364 electronic products identified for each producer shall be based on the best available public return  
365 share data from the United States, including data from other states, for covered electronic  
366 products from persons; provided further, that for the second and subsequent program years, the  
367 return share of covered electronic products identified for each producer shall be based on the  
368 previous year's reported data as described herein; and provided further, that the department shall  
369 use the return share for each producer to allocate financial responsibility for orphan waste; (2)  
370 determine, based on each producer's return share, each producer's share of responsibility for the  
371 orphan waste collected in the commonwealth; provided, however, that each producer's return  
372 share of orphan waste shall be equivalent to its percentage of return share for non-orphan  
373 covered electronic products, multiplied by the total amount of orphan waste collected in the  
374 program year; and provided further, that the department, in determining the producer's orphan

375 waste share, may take into account electronic products, including orphan waste, voluntarily  
376 collected by the producer; (3) determine the market share allocation for each television producer  
377 by determining the total weight of televisions recycled in the previous year, multiplied by the  
378 market share for that producer; provided, however, that in the first program year, the market  
379 share identified for each television producer shall be based on the best available data regarding  
380 the total number of televisions sold in the commonwealth for the previous calendar year; (4)  
381 maintain a list of producers registered pursuant to this chapter; and (5) conduct periodic audits of  
382 processors and collectors at a frequency determined by the department, to assure accuracy of  
383 reporting and billing.

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

395 (c) Beginning one year after this act takes effect and annually thereafter, the department  
396 shall submit a report to the House Committee on Ways and Means, the Senate Committee on  
397 Ways and Means, and the Joint Committee on Environment, Natural Resources and Agriculture

398 that includes information regarding the previous program year. The information shall include,  
399 but is not limited to, (1) the total administrative cost to the state government, (2) the total  
400 administrative cost to local governments, (3) a description of the incentive for manufacturer  
401 collection, and (4) a description of the education, outreach, or other marketing efforts conducted  
402 by the state or local governments to promote collection of covered electronic products.

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

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

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

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

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

416           Section 15. The department shall be charged with the enforcement of sections 1 to 14,  
417 inclusive. If any person refuses to obey a decision of the department the attorney general shall,  
418 upon request of the department, file a petition for the enforcement of such decision in the

419 superior court for Suffolk County or for the county in which the defendant resides or has a place  
420 of business. After hearing, the court shall order the enforcement of such decision or any part  
421 thereof, if legally and properly made by the department.

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

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

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

439 (c) Said advisory commission shall have the following duties: (1) It shall advise the  
440 Department on policy and program development under this section, specifically regarding

441 performance standards; (2) It shall review the registration and renewal fees for producers,  
442 collectors and processors, and shall make recommendations to the commissioner relative thereto;  
443 and (3) It shall make recommendations to the Joint Committee on Environment, Natural  
444 Resources, and Agriculture on recommendations of amending the definition of electronic product  
445 under this statute to cover other electronic products, including but not limited to medical  
446 equipment.

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

452 SECTION 2. Notwithstanding any general or special law to the contrary and unless  
453 otherwise specified herein, this act shall take effect January 1, 2012.