

SENATE No. 404

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>Middlesex and Worcester</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>

SENATE No. 404

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 404) of James B. Eldridge, Jennifer E. Benson, Lori A. Ehrlich, Carolyn C. Dykema 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. 357 OF 2013-2014.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
—————

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 210 the
2 following chapter:-

3 CHAPTER 21P.

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, 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 part of
40 a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including
41 replacement parts for use in a motor vehicle.

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

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

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

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

54 (vi) Global positioning systems (GPS).

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

64 “Department”, the department of environmental protection.

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

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

76 “Monitor”, a video display device without a tuner that can display pictures and sound and
77 is used with a computer.

78 “Netbook” means an electronic, magnetic, optical, electrochemical, or other high-speed
79 data processing device performing logical, arithmetic, or storage functions for general purpose
80 needs which are met through interaction with a number of software programs contained therein,
81 which is not designed to exclusively perform a specific type of limited or specialized application.
82 Human interface with a netbook is achieved through a keyboard, video display greater than 4" in
83 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 products from
113 collectors for the purpose of sorting, weighing and reusing or recycling or shipping offsite for
114 reuse or recycling in accordance with minimum performance requirements established by the
115 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 confidential
171 as provided by section 10 of chapter 66 of the General Laws. The department will publish on its
172 website the following information: (1) the name and contact information of the producer
173 submitting the application and (2) the producer's brand names of covered electronic products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

285 (e) Only an entity registered as a collector with the department may act as a collector in a
286 plan. All covered electronic products received by a registered collector must be submitted to a

287 plan. Fully functioning computers that are received by a registered collector in working order
288 may be sold or donated as whole products by the collector for reuse. Computers that require
289 repair to make them a fully functioning unit may only be repaired on-site at the collector's place
290 of business by the registered collector for reuse according to its original purpose.

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

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

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

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

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

306 Section 8. Collectors shall register with the department every 3 years. Such applications
307 shall be submitted to the department by the date specified by the department together with a

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

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

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

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

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

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

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

349 Section 11. Processors shall register with the department every 3 years. Such application
350 shall be submitted to the department by the date specified by the department together with a
351 renewal fee as shall be established by the department. After verification of the facts stated on the

352 application, the department shall issue a registration, which shall expire in 3 years. Any holder of
353 a registration who fails to file a renewal application within 60 days after notification by the
354 department that his registration has expired shall, prior to engaging in business as a processor
355 within the commonwealth, be required to register anew and pay a late fee in addition to said
356 renewal fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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