

**SENATE . . . . . No. 404**

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**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**

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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.

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[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.