

HOUSE No. 871

The Commonwealth of Massachusetts

PRESENTED BY:

Steven Owens and David M. Rogers

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:	DATE ADDED:
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>1/18/2023</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/19/2023</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>1/30/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/1/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/7/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/7/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/13/2023</i>
<i>Tricia Farley-Bouvier</i>	<i>2nd Berkshire</i>	<i>2/14/2023</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/15/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>3/14/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/30/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>4/21/2023</i>

HOUSE No. 871

By Representatives Owens of Watertown and Rogers of Cambridge, a petition (accompanied by bill, House, No. 871) of Steven Owens, David M. Rogers and others relative to producer responsibility for the collection, reuse and recycling of discarded electronic products. Environment and Natural Resources.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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", any of the following electronic products taken
8 out of service from a person in this State regardless of purchase location: printers; stand-alone
9 facsimile machine; video game console, video cassette recorder/player, digital video disk player,
10 or similar video device; zip drive, external hard drive, or similar storage device; or scanner. To

11 the extent allowed under federal and state laws and regulations, an additionally covered eligible
12 electronic product that is being collected, recycled, or processed for reuse is not considered to be
13 hazardous waste, household waste, solid waste, or special waste. The term does not include a
14 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 producer 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”, a desktop or notebook computer, netbook, or computer
31 monitor, and printers, marketed and intended for use by a person, but does not include a covered
32 television device.

33 “Covered Entity”, any Massachusetts household, business that employs 10 or fewer
34 individuals, nonprofit organization that employs 10 or fewer individuals, school, or any person
35 giving seven or fewer covered electronic devices to a collector at any one time.

36 "Covered electronic device" or “CED”, any computer, computer monitor, television,
37 printer, electronic keyboard, facsimile machine, videocassette recorder, portable digital music
38 player that has memory capability and is battery powered, digital video disc player, video game
39 console, electronic mouse, scanner, digital converter box, cable receiver, satellite receiver, digital
40 video disc recorder, keyboard, computer mouse, device sold for external use with a CED, or
41 small-scale server sold at retail and taken out of service from a residence in this State. CEDs do
42 not include any of the following:

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

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

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

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

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

58 (vi) Global positioning systems (GPS).

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

68 “Department”, the department of environmental protection.

69 “Desktop computer”, an electronic, magnetic, optical, electrochemical, or other high-
70 speed data processing device performing logical, arithmetic, and storage functions for general
71 purpose needs which are met through interaction with a number of software programs contained
72 therein, which is not designed to exclusively perform a specific type of limited or specialized
73 application. Human interface with a desktop computer is achieved through a standalone

74 keyboard, stand-alone monitor or other display unit, and a stand-alone mouse or other pointing
75 device, and is designed for a single user. A desktop computer has a main unit that is intended to
76 be persistently located in a single location, often on a desk or on the floor.

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

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

82 “Netbook”, an electronic, magnetic, optical, electrochemical, or other high-speed data
83 processing device performing logical, arithmetic, or storage functions for general purpose needs
84 which are met through interaction with a number of software programs contained therein, which
85 is not designed to exclusively perform a specific type of limited or specialized application.

86 Human interface with a netbook is achieved through a keyboard, video display greater than 4" in
87 size, and mouse or other pointing device, all of which are contained within the construction of
88 the unit which comprises the netbook, and can be carried as one unit by an individual. Netbook
89 can use external, internal, or batteries for a power source. Netbook does not include a portable
90 handheld calculator, or a portable digital assistant or similar specialized device.

91 “Notebook computer”, an electronic, magnetic, optical, electrochemical, or other high-
92 speed data processing device performing logical, arithmetic, or storage functions for general
93 purpose needs which are met through interaction with a number of software programs contained
94 therein, which is not designed to exclusively perform a specific type of limited or specialized
95 application. Human interface with a notebook computer is achieved through a keyboard, video

96 display greater than 4" in size, and mouse or other pointing device, all of which are contained
97 within the construction of the unit which comprises the notebook computer, and can be carried as
98 one unit by an individual. Supplemental standalone interface devices typically can also be
99 attached to the notebook computer. Notebook computers can use external, internal, or batteries
100 for a power source. Notebook computer does not include a portable handheld calculator, or a
101 portable digital assistant or similar specialized device. A notebook computer is sometimes
102 referred to as a laptop computer.

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

105 "Person", a natural person, corporation, association, partnership, government body or
106 other legal entity.

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

115 "Processor", a person registered with the department to receive electronic products from
116 collectors for the purpose of sorting, weighing and reusing or recycling or shipping offsite for

117 reuse or recycling in accordance with minimum performance requirements established by the
118 department.

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

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

131 “Producer Responsibility Organization”, a nonprofit organization designated by a
132 manufacturer or group of manufacturers to act as an agent of the manufacturer or group of
133 manufacturers for the purpose of developing and implementing an electronics producer
134 responsibility program on behalf of the manufacturer or group of manufacturers.

135 “Program year”, a full calendar year beginning on or after January 1, 2025.

136 “Recycling”, to recover materials or by-products which are: (a) reused; (b) used as an
137 ingredient or a feedstock in an industrial or manufacturing process to make a marketable product;
138 or (c) used in a particular function or application as an effective substitute for a commercial

139 product or commodity; provided, however, that recycle shall not mean to recover energy from
140 the combustion of a material.

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

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

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

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

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

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

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

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

181 Section 4. (a) Registered producers shall register with the department for a specified
182 registration period. Such applications shall be submitted to the department by the date specified

183 by the department together with a renewal fee as shall be established by the department. After
184 verification of the facts stated on the application, the department shall issue a registration. Any
185 holder of a registration who fails to file a renewal application within 60 days after notification by
186 the department that his registration has expired shall, prior to engaging in business as a producer
187 within the commonwealth, be required to register anew and pay a late fee in addition to said
188 renewal fee.

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

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

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

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

201 (d) A producer may also collect its covered electronic products for reuse or recycling by
202 establishing a collection program, either individually or in cooperation with other producers, to
203 collect these discarded products as established in this chapter. A producer establishing an
204 independent collection program for reuse or recycling either individually or in cooperation with

205 other producers shall recover 1 or more electronic products. A producer establishing an
206 independent recycling program either individually or in cooperation with other producers shall
207 meet either of the following criteria to be able to continue the program. In order for an
208 independent recycling program to maintain good standing with the department, the program must
209 either of the following:

210 (i) A program must provide collection services for covered electronic products of all
211 product types and produced by any manufacturer that are reasonably convenient and available to
212 all citizens of the state residing within its geographic boundaries, including both rural and urban
213 areas. Each program must provide a collection service in every county of the state. A program
214 may provide collection services jointly with another plan or plans.

215 (a) For any city or town with a population of greater than ten thousand, each program
216 shall provide a minimum of one collection site or alternate collection service described in
217 subsection (3) of this section or a combination of sites and alternate service that together provide
218 at least one collection opportunity for all product types. A collection site for a county may be the
219 same as a collection site for a city or town in the county.

220 (b) Collection sites may include electronics recyclers and repair shops, recyclers of other
221 commodities, reuse organizations, charities, retailers, government recycling sites, or other
222 suitable locations.

223 (c) Collection sites must be staffed, open to the public at a frequency adequate to meet
224 the needs of the area being served, and on an ongoing basis.

225 (2) A program may limit the number of covered electronic products or covered electronic
226 products by product type accepted per customer per day or per delivery at a collection site or

227 service. All covered entities may use a collection site as long as the covered entities adhere to
228 any restrictions established in the plans.

229 (3) A program may provide collection services in forms different than collection sites,
230 such as curbside services, if those alternate services provide equal or better convenience to
231 citizens and equal or increased recovery of unwanted covered electronic products.

232 (4) For rural areas without commercial centers or areas with widely dispersed population,
233 a program may provide collection at the nearest commercial centers or solid waste sites,
234 collection events, mail-back systems, or a combination of these options.

235 (5) For small businesses, small governments, charities, and school districts that may have
236 large quantities of covered electronic products that cannot be handled at collection sites or
237 curbside services, a program may provide alternate services. At a minimum, a program must
238 provide for processing of these large quantities of covered electronic products at no charge to the
239 small businesses, small governments, charities, and school districts.

240 The department shall provide a report no later than December 31, 2021, to the Joint
241 Committee on Environment, Natural Resources, and Agriculture and the House and Senate
242 Committees on Ways and Means on independent collection programs. This report shall include,
243 but not be limited to, the effectiveness of the independent collection program requirements,
244 independent collection program compliance, and collection rates of independent programs.

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

249 A producer establishing an independent recycling program either individually or in
250 corporation with other producers shall provide the following information to the department:

251 (a) Contact information for the responsible party and a comprehensive list of all
252 manufacturers participating in the plan and their contact information;

253 (b) A description of the collection, transportation, and recycling systems and service
254 providers used, including a description of how the PRO or responsible party will:

255 (i) Seek to use businesses within the state, including retailers, charities, processors, and
256 collection and transportation services;

257 (ii) Fairly compensate collectors for providing collection services; and

258 (iii) Fairly compensate processors for providing processing services;

259 (c) The method or methods for the reasonably convenient collection of all product types
260 of covered electronic products in rural and urban areas throughout the state, including how the
261 plan will provide for collection services in each county of the state and for a minimum of one
262 collection site or alternate collection service for each city or town with a population greater than
263 ten thousand. A collection site for a county may be the same as a collection site for a city or town
264 in the county;

265 (d) A description of how the plan will provide service to small businesses, small
266 governments, charities, and school districts in the state;

267 (e) The processes and methods used to recycle covered electronic products including a
268 description of the processing that will be used and the facility location;

269 (f) Documentation of audits of each processor used in the plan and compliance with
270 processing standards established under MGL;

271 (g) A description of the accounting and reporting systems that will be employed to track
272 progress toward the plan's equivalent share;

273 (h) A timeline describing start-up, implementation, and progress towards milestones with
274 anticipated results;

275 (i) A public information campaign to inform consumers about how to recycle their
276 covered electronic products at the end of the product's life; and

277 (j) A description of how manufacturers participating in the plan will communicate and
278 work with processors utilized by that plan to promote and encourage design of electronic
279 products and their components for recycling. The plan shall address how it will incorporate and
280 fairly compensate registered collectors providing curbside or premium services such that they are
281 not compensated at a lower rate for collection costs than the compensation offered other
282 collectors providing drop-off collection sites in that geographic area.

283 All transporters, collectors, and processors used to fulfill the requirements of this section
284 must be registered as described in this law.

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

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

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

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

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

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

297 The department shall review each report within ninety days of its submission and shall
298 notify the PRO or responsible party of any need for additional information or documentation, or
299 any deficiency in its program. All reports submitted to the department must be available to the
300 general public through the internet. Proprietary information submitted to the department under
301 this chapter is exempt from public disclosure

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

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

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

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

314 Section 7. (a) Every collector seeking to engage in business in the commonwealth shall
315 file an application, accompanied by the collector registration fee, with the department
316 requesting registration as a collector. Said application shall be made on a form to be furnished by
317 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. The department
319 shall, within 60 days, review the application for registration. If said application satisfies the
320 requirements of this section, the department shall register said applicant as a collector and shall
321 forthwith mail to him a certificate to that effect. If said application fails to satisfy the
322 requirements of this section the collector shall, within 30 days, file with the department a revised
323 application addressing the requirements noted by the department.

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

327 (c) A collector shall: (1) contract with a registered processor or processors to receive the
328 covered electronic products collected by the collector; (2) make information available to the
329 public that describes where and how to return covered electronic products for reuse or recycling,
330 and dispose of covered electronic products; (3) accept all covered electronic products and ensure

331 that said products are transported by or delivered to a registered processor; and (4) demonstrate
332 compliance with the department rules and regulations and the United States Environmental
333 Protection Agency's Responsible Recycling Guidelines for Materials Management as issued and
334 available on the United States Environmental Protection Agency's Internet website in addition to
335 any other requirements mandated by federal or state law. A collector may limit the number of
336 covered electronic products delivered at a given time by any customer to no more than 5.

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

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

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

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

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

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

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

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

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

371 Section 10. (a) Every processor seeking to engage in business in the commonwealth shall
372 file an application, accompanied by appropriate processor registration fee, with the department
373 requesting registration as a processor. Said application shall be made on a form to be furnished
374 by the department, and shall include, without limitation, the following information: (1) the name;

375 (2) the address; (3) the telephone number; and (4) the location of the business of the processor's
376 business. The department shall, within 60 days, review the application for registration. If said
377 application satisfies the requirements of this section, the department shall register said applicant
378 as a processor and shall forthwith mail to him a certificate to that effect. If said application fails
379 to satisfy the requirements of this section the processor shall, within 30 days, file with the
380 department a revised application addressing the requirements noted by the department.

381 (b) A processor shall: (1) be responsible for sorting all covered electronic products
382 received from a participating collector with whom the processor has a contract; (2) weigh the
383 total amount of covered electronic products received from a participating collector and reimburse
384 said collector; provided, however, that said collector reimbursement shall be due within 30 days
385 of pick-up; (3) sort, by producer, and weigh all covered electronic products other than televisions
386 received from collectors; (4) weigh all televisions received from collectors; (5) either repair,
387 refurbish, remanufacture, or recycle on-site or ship covered electronic products offsite for reuse
388 or recycling in accordance with the minimum performance requirements established by the
389 department; (6) be certified to "e-Stewards Standard for Responsible Recycling and Reuse of
390 Electronics," the U.S. Environmental Protection Agency's "Responsible Recycling" (R2)
391 Standard, or other environmental performance and accountability certification standards as
392 determined to be at least equivalent to e-Stewards or R2 by the department; (7) submit an invoice
393 for producer reimbursement to each producers whose waste the processor has handled; and (8)
394 annually submit a report to the department which shall include without limitation: (i) the total
395 aggregate weight of covered electronic products processed pursuant to this chapter in the
396 previous program year; (ii) the weight, differentiated by producer, of covered electronic products
397 processed pursuant to this chapter in the previous program year; (iii) the total amount of orphan

398 waste processed pursuant to this chapter in the previous program year; and (iv) any other
399 information to help track, monitor and evaluate the management of covered electronic products,
400 as determined by the department.

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

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

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

415 Section 13. (a) The department shall annually: (1) determine the return share for each
416 program year for each producer of electronic products other than televisions by dividing the
417 weight of covered electronic products identified for each producer by the total weight of covered
418 electronic products identified for all producers; provided further, that said calculation shall be
419 based on the reports generated by processors of covered electronic products in the

420 commonwealth; provided further, that for the first program year, the return share of covered
421 electronic products identified for each producer shall be based on the best available public return
422 share data from the United States, including data from other states, for covered electronic
423 products from persons; provided further, that for the second and subsequent program years, the
424 return share of covered electronic products identified for each producer shall be based on the
425 previous year's reported data as described herein; and provided further, that the department shall
426 use the return share for each producer to allocate financial responsibility for orphan waste; (2)
427 determine, based on each producer's return share, each producer's share of responsibility for the
428 orphan waste collected in the commonwealth; provided, however, that each producer's return
429 share of orphan waste shall be equivalent to its percentage of return share for non-orphan
430 covered electronic products, multiplied by the total amount of orphan waste collected in the
431 program year; and provided further, that the department, in determining the producer's orphan
432 waste share, may take into account electronic products, including orphan waste, voluntarily
433 collected by the producer; (3) determine the market share allocation for each television producer
434 by determining the total weight of televisions recycled in the previous year, multiplied by the
435 market share for that producer; provided, however, that in the first program year, the market
436 share identified for each television producer shall be based on the best available data regarding
437 the total number of televisions sold in the commonwealth for the previous calendar year; (4)
438 maintain a list of producers registered pursuant to this chapter; and (5) conduct periodic audits of
439 processors and collectors at a frequency determined by the department, to assure accuracy of
440 reporting and billing.

441 (b) The department shall adopt and may from time to time amend rules and regulations,
442 and the commissioner may issue orders, to enforce the provisions of this chapter. Said

443 regulations shall include, but not be limited to, establishing, as a maximum number not higher
444 than twelve, the number of times a year payment from producers to collectors and processors be
445 made, adjudicatory procedures for denied revised applications and minimum performance
446 requirements for collection and processing of covered electronic products. Any person, including
447 any political subdivision of the commonwealth who violates this chapter, or any order issued
448 pursuant thereto, or any rule or regulation promulgated hereunder shall be subject to a fine of not
449 more than twenty-five thousand dollars for each such violation. Each day each such violation
450 occurs or continues shall be deemed a separate offense. These penalties shall be in addition to
451 any other penalties that may be prescribed by law.

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

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

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

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

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

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

473 Section 15. The department shall be charged with the enforcement of sections 1 to 14,
474 inclusive. If any person refuses to obey a decision of the department the attorney general shall,
475 upon request of the department, file a petition for the enforcement of such decision in the
476 superior court for Suffolk County or for the county in which the defendant resides or has a place
477 of business. After hearing, the court shall order the enforcement

478 of such decision or any part thereof, if legally and properly made by the department.

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

481 Section 17. (a) There shall be in the Department an advisory commission, chaired by the
482 Commissioner of the Department or his designee, for electronic waste. The commission shall
483 include the Senate chair of the Joint Committee on Environment, Natural Resources, and
484 Agriculture or his designee, the House chair of the Joint Committee on Environment, Natural

485 Resources, and Agriculture or his designee. The advisory commission shall also include the
486 following individuals to be appointed by the Secretary of Energy and Environmental Affairs: one
487 individual representing covered television product manufacturers, one individual representing
488 processors of covered electronic products, one individual representing a trade association of
489 covered computer product manufacturers or covered television product manufacturers , one
490 individual representing covered computer manufacturers, one individual representing retailers of
491 covered electronic products, one representative of the Massachusetts Municipal Association, one
492 representative of the Massachusetts Product Stewardship Council, and one individual
493 representing a statewide conservation organization.

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

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

505 (d) The advisory commission shall meet at least four times a year and shall convene
506 special meetings at the call of the Commissioner. A written record of all meetings of the

507 committee shall be maintained by the Department. Members of the commission shall serve
508 without compensation. The members of the commission representing the Department or the
509 General Court shall serve without additional compensation.

510 SECTION 2. Notwithstanding any general or special law to the contrary and unless
511 otherwise specified herein, this act shall take effect January 1, 2025.