

CHAPTER 239

(House Bill 488)

AN ACT concerning

Environment – Statewide Electronics Recycling Program

FOR the purpose of altering a certain recycling program to include certain additional electronic devices; authorizing a county to address methods for the separate collection and recycling of certain electronic devices in a certain recycling plan; requiring that certain unspent or unencumbered funds, in excess of a certain amount, revert to the General Fund of the State; requiring certain fines and penalties be deposited into the State Recycling Trust Fund; requiring manufacturers of certain electronic devices to submit to the Department of the Environment a certain registration and fee; altering a certain manufacturer registration fee; requiring the Department to maintain a certain list of certain registered electronic device manufacturers; requiring the Department to provide the list to the Comptroller in a certain manner; prohibiting a certain retailer from selling certain electronic devices under certain circumstances; authorizing the Comptroller to assess a certain fine against certain retailers for certain violations only after a certain number of warnings have been issued; establishing that each day on which a violation occurs or continues is a separate violation under certain provisions of this Act; requiring the fine to be deposited into the State Recycling Trust Fund in a certain manner; repealing the termination date of certain provisions of a certain Act; defining certain terms; and generally relating to the Statewide Electronics Recycling Program.

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1701, 9–1702(d)(4), 9–1703(c), and 9–1707(f); and 9–1727 through 9–1730 to be under the amended part “Part IV. Statewide Electronics Recycling Program”

Annotated Code of Maryland

(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section 9–1702(a)

Annotated Code of Maryland

(1996 Replacement Volume and 2006 Supplement)

BY adding to

Article – Environment

Section 9–1728.1 to be under the amended part “Part IV. Statewide Electronics Recycling Program”

Annotated Code of Maryland

(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Chapter 384 of the Acts of the General Assembly of 2005

Section 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

9–1701.

(a) In this subtitle the following words have the meanings indicated.

(b) “Compost” means the product of composting in accordance with the standards established by the Secretary of Agriculture under § 6–221 of the Agriculture Article.

(c) “Composting” means the controlled biological decomposition of organic waste material in accordance with the standards established by the Secretary under this title.

(d) (1) “Computer” means a desktop personal computer or laptop computer, including the computer monitor.

(2) “Computer” does not include:

(i) A personal digital assistant device;

(ii) A computer peripheral device, including:

1. A mouse or other similar pointing device;

2. A printer; or

3. A detachable keyboard.

(e) (1) **“COVERED ELECTRONIC DEVICE” MEANS A COMPUTER OR VIDEO DISPLAY DEVICE WITH A SCREEN THAT IS GREATER THAN 4 INCHES MEASURED DIAGONALLY.**

(2) **“COVERED ELECTRONIC DEVICE” DOES NOT INCLUDE A VIDEO DISPLAY DEVICE THAT IS PART OF A MOTOR VEHICLE OR THAT IS CONTAINED WITHIN A HOUSEHOLD APPLIANCE OR COMMERCIAL, INDUSTRIAL, OR MEDICAL EQUIPMENT.**

(F) [“Computer] **“COVERED ELECTRONIC DEVICE takeback program”** means a program, established by a [computer] **COVERED ELECTRONIC DEVICE** manufacturer, for the collection and recycling, refurbishing, or reuse of a [computer] **COVERED ELECTRONIC DEVICE** labeled with the name of the manufacturer or the manufacturer’s brand label, including:

(1) Providing, at no cost to the returner, a method of returning a [computer] **COVERED ELECTRONIC DEVICE** to the manufacturer, including postage paid mailing packages or designated collection points throughout the State;

(2) Contracting with a recycler, local government, other manufacturer, or any other person; or

(3) Any other program approved by the Department.

[(f)] (G) **“Director”** means the Director of the Office of Recycling.

[(g)] (H) **“Manufacturer”** means [the corporation or other legal entity that is the brand owner or importer of a computer sold in the State] **A PERSON WHO HAS LEGAL OWNERSHIP THAT IS THE BRAND OWNER OF A COVERED ELECTRONIC DEVICE BRAND SOLD OR OFFERED FOR SALE IN THE STATE, BY ANY MEANS, INCLUDING TRANSACTIONS CONDUCTED THROUGH SALES OUTLETS, CATALOGS, OR THE INTERNET.**

[(h)] (I) (1) **“Natural wood waste”** means tree and other natural vegetative refuse.

(2) **“Natural wood waste”** includes tree stumps, brush and limbs, root mats, logs, and other natural vegetative material.

[(i)] (J) (1) “Natural wood waste recycling facility” means a facility where recycling services for natural wood waste are provided.

(2) “Natural wood waste recycling facility” does not include a collection or processing facility operated by:

(i) A nonprofit or governmental organization located in the State; or

(ii) A single individual or business that provides recycling services for its own employees or for its own recyclable materials generated on its own premises.

[(j)] (K) “Office” means the Office of Recycling within the Department.

[(k)] (L) “Recyclable materials” means those materials that:

(1) Would otherwise become solid waste for disposal in a refuse disposal system; and

(2) May be collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

[(l)] (M) (1) “Recycling” means any process in which materials that would otherwise become solid waste are collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

(2) “Recycling” includes composting.

[(m)] (N) “Recycling services” means the services provided by persons engaged in the business of recycling, including the collection, processing, storage, purchase, sale, or disposition of recyclable materials.

[(n)] (O) “Resource recovery facility” means a facility in existence as of January 1, 1988 that:

(1) Processes solid waste to produce valuable resources, including steam, electricity, metals, or refuse-derived fuel; and

(2) Achieves a volume reduction of at least 50 percent of its solid waste stream.

[(o)] (P) (1) "Solid waste stream" means garbage or refuse that would, unless recycled, be disposed of in a refuse disposal system located in this State.

(2) "Solid waste stream" does not include:

- (i) Hospital waste;
- (ii) Rubble;
- (iii) Scrap material;
- (iv) Land clearing debris;
- (v) Sewage sludge; or

(vi) Waste generated by a single individual or business and disposed of in a facility dedicated solely for that entity's waste.

(Q) (1) "VIDEO DISPLAY DEVICE" MEANS AN ELECTRONIC DEVICE WITH AN OUTPUT SURFACE THAT DISPLAYS OR IS CAPABLE OF DISPLAYING MOVING GRAPHICAL IMAGES OR VISUAL REPRESENTATIONS OF IMAGE SEQUENCES OR PICTURES THAT SHOW A NUMBER OF QUICKLY CHANGING IMAGES ON A SCREEN TO CREATE THE ILLUSION OF MOTION.

(2) "VIDEO DISPLAY DEVICE" INCLUDES A DEVICE THAT IS AN INTEGRAL PART OF THE DISPLAY AND CANNOT EASILY BE REMOVED FROM THE DISPLAY BY THE CONSUMER AND THAT PRODUCES THE MOVING IMAGE ON THE SCREEN.

(3) A VIDEO DISPLAY DEVICE MAY USE A CATHODE-RAY TUBE (CRT), LIQUID CRYSTAL DISPLAY (LCD), GAS PLASMA, DIGITAL LIGHT PROCESSING, OR OTHER IMAGE-PROJECTION TECHNOLOGY.

[(p)] (R) "White goods" includes:

- (1) Refrigerators;
- (2) Stoves;
- (3) Washing machines;

- (4) Dryers;
- (5) Water heaters; and
- (6) Air conditioners.

[(q)] (S) (1) “Yard waste” means organic plant waste derived from gardening, landscaping, and tree trimming activities.

(2) “Yard waste” includes leaves, garden waste, lawn cuttings, weeds, and prunings.

9–1702.

- (a) There is an Office of Recycling created within the Department.
- (d) The Office shall:

(4) Administer the Statewide [Computer] **ELECTRONICS** Recycling [Pilot] Program under Part IV of this subtitle.

9–1703.

(c) (1) In preparing the recycling plan as required under § 9–505 of this title, the county may address methods for the separate collection and recycling of [computers] **COVERED ELECTRONIC DEVICES**, including efforts by the county to establish partnerships with [computer] **COVERED ELECTRONIC DEVICE** manufacturers, recyclers, retailers, or other local governments for the collection and recycling of [computers] **COVERED ELECTRONIC DEVICES**.

(2) If a county elects to address methods for the separate collection and recycling of [computers] **COVERED ELECTRONIC DEVICES** in its recycling plan, any reduction in the county’s solid waste stream attributable to the implementation of the methods shall count towards the county’s required reduction through recycling of the solid waste stream under § 9–505 of this title.

9–1707.

- (f) (1) There is a State Recycling Trust Fund.
- (2) The Fund shall consist of:

- (i) The newsprint recycling incentive fee;
 - (ii) The telephone directory recycling incentive fee collected under § 9–1709 of this subtitle;
 - (iii) The [computer] **COVERED ELECTRONIC DEVICE** manufacturer registration fee collected under § 9–1728 of this subtitle;
 - (iv) **ALL FINES AND PENALTIES COLLECTED UNDER THIS SUBTITLE;**
 - (v) Money appropriated in the State budget to the Fund; and
 - ~~[(v)]~~ (vi) Any other money from any other source accepted for the benefit of the Fund.
- (3) The Secretary shall administer the Fund.
- (4) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.
- (5) At the end of each fiscal year, any unspent or unencumbered balance in the Fund **THAT EXCEEDS \$2,000,000** shall revert to the General Fund of the State in accordance with § 7–302 of the State Finance and Procurement Article.
- (6) In accordance with the State budget, the Fund shall be used only:
- (i) To provide grants to the counties to be used by the counties to develop and implement local recycling plans;
 - (ii) To provide grants to counties that have addressed methods for the separate collection and recycling of [computers] **COVERED ELECTRONIC DEVICES** in accordance with § 9–1703(c)(1) of this subtitle;
 - (iii) To provide grants to municipalities to be used by the municipalities to implement local [computer] **COVERED ELECTRONIC DEVICE** recycling programs; and
 - (iv) To carry out the purposes of the Office of Recycling under this subtitle.

(7) (i) The Treasurer shall invest the money in the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

Part IV. Statewide [Computer] **ELECTRONICS** Recycling [Pilot] Program.

9-1727.

(a) This section applies to a manufacturer that manufactured an average of more than 1,000 [computers] **COVERED ELECTRONIC DEVICES** per year in the immediately preceding 3-year period.

(b) [On or after January 1, 2006, a] **A** manufacturer may not sell or offer for sale to any person in the State a new [computer] **COVERED ELECTRONIC DEVICE** unless:

(1) The [computer] **COVERED ELECTRONIC DEVICE** is labeled with the name of the manufacturer or the manufacturer's brand label; and

(2) The manufacturer has registered with and submitted a registration fee to the Department as provided under this part.

9-1728.

(a) A [computer] **COVERED ELECTRONIC DEVICE** manufacturer's registration shall include:

(1) The brand names under which the manufacturer sells or offers for sale [computers] **COVERED ELECTRONIC DEVICES** in the State;

(2) Whether the manufacturer has implemented a [computer] **COVERED ELECTRONIC DEVICE** takeback program;

(3) If the manufacturer has implemented a [computer] **COVERED ELECTRONIC DEVICE** takeback program:

(i) A toll-free number or website address that provides information about the takeback program, including a detailed description of how a

person may return a [computer] **COVERED ELECTRONIC DEVICE** for recycling, refurbishing, or reuse; and

(ii) One year after the implementation of the program and each year thereafter, a report on the implementation of the program during the prior year, including:

1. The total weight of the [computers] **COVERED ELECTRONIC DEVICES** received by the program from Maryland during the prior year;

2. The total number of [computers] **COVERED ELECTRONIC DEVICES** from Maryland recycled, refurbished, and reused during the prior year; and

3. The processes and methods used to recycle, refurbish, or reuse the [computers] **COVERED ELECTRONIC DEVICES** received from Maryland; and

(4) Any additional information required by the Department in regulation.

(b) The registration shall:

(1) Be submitted to the Department by January 1 of each year; and

(2) If the manufacturer has implemented a [computer] **COVERED ELECTRONIC DEVICE** takeback program, be updated prior to any significant change in the program.

(c) The [computer] **COVERED ELECTRONIC DEVICE** manufacturer registration fee is:

(1) [~~\$5,000~~] **\$10,000** for the initial registration by the manufacturer;

(2) (i) \$5,000 for each subsequent annual registration by a manufacturer that did not have an implemented [computer] **COVERED ELECTRONIC DEVICE** takeback program in the prior year; or

(ii) \$500 for each subsequent annual registration by a manufacturer that had an implemented [computer] **COVERED ELECTRONIC DEVICE** takeback program in the prior year;

- (3) Submitted to the Department by January 1 of each year; and
 - (4) Paid into the State Recycling Trust Fund.
- (d) (1) The Department shall:
- (i) Review the registration submitted under this section; and
 - (ii) If the registration does not meet the requirements of this section and the regulations adopted by the Department under this subtitle, notify the manufacturer of the insufficiency.
- (2) Within 60 days after receipt of a notice of insufficiency, the manufacturer shall submit a revised registration that addresses the insufficiencies noted by the Department.

(E) (1) THE DEPARTMENT SHALL MAINTAIN A LIST OF REGISTERED COVERED ELECTRONIC DEVICE MANUFACTURERS.

(2) THE DEPARTMENT SHALL PROVIDE A LIST OF REGISTERED COVERED ELECTRONIC DEVICE MANUFACTURERS TO THE COMPTROLLER IN A MANNER AGREED ON BY THE DEPARTMENT AND THE COMPTROLLER.

9-1728.1.

(A) IN THIS SECTION, "RETAILER" MEANS ANY PERSON THAT SELLS A COVERED ELECTRONIC DEVICE TO A CONSUMER.

(B) IF A MANUFACTURER IS SUBJECT TO THE REQUIREMENTS OF §§ 9-1727 AND 9-1728 OF THIS PART, A RETAILER MAY NOT SELL OR OFFER FOR SALE TO ANY PERSON IN THE STATE A NEW COVERED ELECTRONIC DEVICE MANUFACTURED BY THE MANUFACTURER, UNLESS THE MANUFACTURER HAS COMPLIED WITH THE REQUIREMENTS OF §§ 9-1727 AND 9-1728 OF THIS PART.

9-1729.

The Department may adopt regulations necessary to implement the provisions of this subtitle, including the required components of a [computer] **COVERED ELECTRONIC DEVICE** takeback program.

9-1730.

(A) The provisions and penalties of § 9-342 of this title shall be used and shall apply to enforce violations of this part.

(B) (1) **IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE COMPTROLLER MAY ASSESS AGAINST ANY RETAILER THAT VIOLATES § 9-1728.1(B) OF THIS PART A FINE UP TO ~~\$5,000~~ \$500 FOR EACH VIOLATION, BUT NOT EXCEEDING ~~\$50,000~~ \$5,000 TOTAL.**

(2) A FINE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE ASSESSED ONLY AFTER THE RETAILER THAT COMMITTED THE VIOLATION HAS BEEN ISSUED THREE WARNINGS REGARDING THE VIOLATION.

(3) EACH DAY ON WHICH A VIOLATION OCCURS OR CONTINUES IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.

(2) (4) AT THE END OF EACH QUARTER, THE COMPTROLLER SHALL FORWARD ALL FINES TO THE STATE RECYCLING TRUST FUND IN A MANNER AGREED ON BY THE DEPARTMENT AND THE COMPTROLLER.

Chapter 384 of the Acts of 2005

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2005. [Section 1 of this Act shall remain effective for a period of 5 years and 6 months and, at the end of December 31, 2010, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.