

AMENDED IN ASSEMBLY SEPTEMBER 5, 2003

AMENDED IN ASSEMBLY JULY 29, 2003

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN SENATE MAY 21, 2003

AMENDED IN SENATE MAY 6, 2003

SENATE BILL

No. 20

**Introduced by Senators Sher and Romero
(Principal coauthor: Senator Kuehl)**

(Principal coauthor: Assembly Member Jackson)

(Coauthor: Senator Figueroa)

(Coauthors: Assembly Members ~~Chu, Koretz, Berg, Chu, Koretz,~~
Laird, Leno, Levine, Lieber, Montanez, Pavley, and Wolk)

December 2, 2002

An act to add ~~Article 11.7 (commencing with Section 25243)~~ *Section 25243 to, and to add Article 1.2 (commencing with Section 25108)* to Chapter 6.5 of Division 20 of the Health and Safety Code, and to add Article 4 (commencing with Section 41516) to Chapter 3.5 of Part 2 of, and Chapter 8.5 (commencing with Section 42460) to Part 3 of, Division 30 of the Public Resources Code, relating to hazardous and solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 20, as amended, Sher. Solid waste: hazardous electronic waste recovery, reuse, and recycling.

(1) Existing law prohibits the management of hazardous waste, except in accordance with the hazardous waste *control* laws. Under

existing law, the Department of Toxic Substances Control is authorized to exempt, until January 1, 2003, by regulation, a hazardous waste management activity from the requirements of the hazardous waste control law if the regulation governs a specified type of hazardous waste, including electronic hazardous wastes, identifies the hazardous waste as a universal waste, and amends specified existing regulations of the department. Existing law prohibits the disposal of electronic products in or on land, except as specified. A violation of the hazardous waste control law is a crime.

The bill would ~~require~~ *authorize* the Department of Toxic Substances Control to adopt ~~regulations by January 1, 2007, that management standards, by regulation, as an alternative to the hazardous waste control laws, for electronic waste that the department determines is hazardous, or if the federal Resource Conservation and Recovery Act of 1976 (RCRA) authorizes an alternative standard. The bill would prohibit electrical and electronic equipment put on the market from containing chemicals that are prohibited in electrical and electronic equipment put on the market under~~ *require the department to adopt regulations to prohibit an electronic device from being sold or offered for sale in this state if the electronic device is prohibited from being sold in the European Union. The bill would prohibit these regulations from taking effect until January 1, 2007, or on or after the date the Directive 2002/95/EC, as adopted by the European Parliament and the Council of the European Union on January 27, 2003 takes effect, whichever date is later. The bill also would require the department to adopt regulations by January 1, 2005, to prohibit the use of any electronic or mechanical device that prevents, impedes, or limits the reuse, remanufacture, or recycling of a hazardous electronic device would require the department to exclude certain electronic devices from the regulations and would prohibit the department from requiring the manufacture or sale of an electronic device that is different than, or not otherwise prohibited by, the European Union, thereby imposing a state-mandated local program by creating a new crime. The bill would also incorporate the provisions of the Covered Electronic Waste Recycling Act of 2003, as specified below, by reference into the hazardous waste control laws.*

(2) Existing law requires the California Integrated Waste Management Board to administer state programs to recycle various specified materials.

This bill would enact the ~~Hazardous~~ *Covered Electronic Waste; Recycling Act of 2003*. The bill would make it unlawful to sell a



~~hazardous~~, on and after July 1, 2004, a covered electronic device in this state to a consumer, as defined, unless the board or department determines that the manufacturer of that device is in compliance with the act. *The bill would prohibit the sale of a covered electronic device, after January 1, 2005, that is not labeled, as specified.*

The bill would require a ~~manufacturer or~~ retailer selling a ~~hazardous covered~~ electronic device in this state to collect an electronic waste ~~collection~~ recycling fee from the consumer and to transmit the fee to the board in accordance with a schedule and procedures that the board would be required to establish. The bill would ~~require the board, by January 1, 2006, and on or before January 1 of every second year thereafter, to establish, and adjust as needed, an electronics waste collection fee schedule for hazardous electronic devices sold in this state and would provide that from January 1, 2004, until January 1, 2006, set the electronics~~ *electronic waste collection recycling fee would be set in an amount according to a specified fee schedule and would require the board, on and after July 1, 2005, and at least once every 2 years thereafter, to review and adjust the electronic waste recycling fee, based on specified factors.*

The bill would require each manufacturer of a ~~hazardous~~ an electronic device ~~sold who sells the device~~ in this state, by July 1, 2004 2005, and at least once annually thereafter, to *submit a report to the board on the number of hazardous electronic devices sold by the manufacturer in this state during the previous calendar year and other information regarding hazardous materials in those devices. A manufacturer would also be required to make information available to consumers that describes where and how to return, recycle, and dispose of the hazardous electronic device and opportunities and locations for the collection or return of the device, through specified means.*

The bill would ~~require the board, by January 1, 2006, and each year thereafter, to establish annual recycling targets for hazardous electronic devices. The bill would require that, for calendar year 2006, the recycling targets for the amount of hazardous electronic devices recycled in the state equal 50% or more of the hazardous electronic devices sold in the state during the calendar year 2005. The bill would require a manufacturer of a hazardous electronic device, as defined, sold in the state to either establish and implement a hazardous electronic device recycling system or to pay a electronic waste recycling fee. The bill would require the hazardous electronic device recycling system to be certified by the board for the receipt, processing, and recycling of the~~



~~hazardous electronic waste resulting from the devices sold by that manufacturer. The bill would require the hazardous electronic device recycling system to meet specified requirements, including meeting or exceeding the recovery targets established by the board.~~

~~The bill would require a manufacturer who elects to pay the electronic waste recycling fee to pay the fee for each hazardous electronic device produced by the manufacturer and sold to a purchaser in this state. The bill would require the board to establish, by January 1, 2005, and to revise as necessary, the electronic waste recycling fee schedule for hazardous electronic devices sold to purchasers in this state. The bill would require the board to base the electronic waste recycling fee on the net cost of an e-waste recycler to receive, process, and recycle a hazardous electronic device from an authorized collector, and to design the fee to generate sufficient funds to cover the net costs of recycling hazardous electronic waste projected to be generated in this state and make electronic waste recovery and recycling payments to electronic waste recyclers.~~

~~The bill would require a manufacturer of a hazardous electronic device that sells a hazardous electronic device in the state to notify the board of its intent to sell the device. The bill would require a manufacturer that intends to export a hazardous electronic waste to provide the department with specified information.~~

~~The bill would impose civil liability for violations of specified provisions. The~~

~~*The bill would require the board to convene an electronic waste working group to define environmental purchasing criteria, by July 1, 2005, that may be used by state agencies. The bill would also require the board to annually establish and update, as necessary, statewide electronic waste recycling goals.*~~

~~*The bill would require the board to deposit the fees collected under the act in the Electronic Waste Recovery and Recycling Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury.*~~

~~This bill would authorize the board *or the department* to expend the moneys deposited in the account, upon appropriation by the Legislature, to ~~to~~ *make electronic waste recovery payments to authorized collectors, to make* electronic waste recycling ~~and recovery~~ payments to *covered* electronic waste recyclers, and to administer the act. ~~The bill would authorize the board to expend any remaining funds in the account, upon appropriation by the Legislature, to provide grant~~~~



~~funds to local governments for the cleanup of electronic devices and programs for recycling hazardous electronic devices, to provide grants to nonprofit agencies to refurbish or recycle hazardous electronic devices, to provide financial incentives to manufacturers of these devices to assist in the recycling of the devices, and provisions regulating covered electronic devices. The bill would also allow the board to expend not more than 1% of the funds in the account to establish public information programs on recycling of hazardous electronic devices.~~

The bill would require the board to establish on ~~January~~ *July* 1, 2004, and on ~~January~~ *July* 1 every ~~two~~ 2 years thereafter, an electronic waste recovery payment schedule to cover the net cost of an authorized collector in operating a free and convenient system for collecting, consolidating and transporting ~~hazardous~~ *covered* electronic wastes generated in this state and *would require the board to make those payments to authorized collectors. The bill would also require the board* to establish an electronic waste recycling payment schedule to cover an e-waste recycler's net cost of receiving, processing, and recycling a ~~hazardous covered~~ *covered* electronic ~~device~~ *waste* from an authorized collector *and would require the board to make those payments to covered electronic waste recyclers.*

~~The bill would require the board to pay an e-waste recovery payment and an e-waste recycling payment to an electronic waste recycler, for the hazardous electronic waste generated in this state that is collected and received by the e-waste recycler for recycling. The e-waste a recycler would be require to transmit the e-waste recovery payment to an authorized collector or its designated consolidator, for all hazardous electronic waste generated in this state, that is collected and received by the e-waste recycler. The bill would allow an e-waste a recycler to receive these payments only if the e-waste recycler meets specified eligibility requirements regarding the e-waste recycler's facilities and to make certain demonstrations if the e-waste recycler intends to export hazardous electronic waste to a foreign destination. The bill would authorize the board and the department to adopt regulations to implement the bill and would authorize these regulations to be adopted as emergency regulations, as specified.~~

The bill would require any person who intends to export electronic waste to a foreign destination to comply with specified notifications requirements and to demonstrate, among other things, that the handling of the exported electronic waste within the country of destination would



meet certain standards adopted by the Organization for Economic Co-operation and Development.

Since the bill would incorporate the provisions of this act into the hazardous waste control laws, a violation of which is a crime, the bill would impose a state-mandated local program by creating new crimes.

(3) Existing law, the California Integrated Waste Management Act of 1989, requires the county or regional agency integrated waste management plan that a county or regional agency is required to submit to the board to contain a household hazardous waste element.

This bill would require, on and after January 1, 2004, that when a county or regional agency revises the county or regional integrated waste management plan and its elements, the city household hazardous waste element and county household hazardous waste element would be required to identify those actions the city, county, or regional agency is taking to promote the collection, consolidation, recovery, and recycling of ~~hazardous~~ covered electronic waste, thereby creating a state-mandated local program by imposing new duties upon local agencies.

(4) This bill would provide that its provisions are severable.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Electronic waste represents one of the fastest growing and
4 hazardous components of California’s waste stream.

5 (b) According to the United States Environmental Protection
6 Agency, more than 4.3 million tons of appliances and consumer
7 electronics were discarded in 1999.

8 (c) Due to the presence of toxic lead, mercury, or other
9 hazardous or potentially hazardous materials in electronic waste,



1 this waste poses a particular threat to public health and the
2 environment when improperly discarded.

3 (d) A study conducted by the California Integrated Waste
4 Management Board estimates that California households currently
5 have more than 6,000,000 obsolete computer monitors and
6 television sets “stockpiled” in their homes.

7 (e) A study for the National Safety Council projects that more
8 than 10,000 computers and televisions become obsolete in
9 California every day. The study further projects that three-quarters
10 of all computers ever purchased in the United States remain
11 stockpiled in storerooms, attics, garages, or basements.

12 (f) It is estimated that only 20 percent of obsolete computers
13 and televisions are currently recovered for recycling.

14 (g) Electronic waste recovered for recycling, including
15 devices from California public agencies, has been found to have
16 been illegally handled and discarded in developing countries,
17 posing a significant threat to public health, worker safety, and the
18 environment in those countries.

19 (h) The collection, handling, and management of electronic
20 waste that is currently recovered represents a costly and growing
21 problem for local governments and nonprofit organizations,
22 including Goodwill Industries and the Salvation Army.

23 (i) The high technology sector represents a vital and important
24 part of California’s economy.

25 (j) The system to reduce and recycle electronic waste
26 established pursuant to this act should establish strict and
27 enforceable requirements on all ~~manufacturers of electronic~~
28 ~~devices~~ *regulated entities* while being cost-effective and providing
29 flexibility to take advantage of the innovation of the high
30 technology sector.

31 (k) The system should also ensure that the state will impose
32 compliance obligations uniformly on all regulated entities to
33 ensure that companies accepting their responsibilities are not
34 penalized by the potential noncompliance of other companies.

35 (l) The system should also be scalable to national,
36 international, and global systems to take into account obligations
37 that may be imposed on manufacturers of hazardous electronic
38 devices beyond those imposed under this act.

39 (m) The system should ensure that economically viable and
40 sustainable markets are developed and supported for recovered



1 materials and components in order to conserve resources and
2 maximize business and employment opportunities within
3 California.

4 (n) The Governor has requested that the Legislature enact
5 legislation in 2003 challenging industries to assume greater
6 responsibility for the recycling and disposal of electronic waste,
7 stating that “California needs a comprehensive and innovative
8 state law that partners with product manufacturers, establishes
9 recycling targets, and provides for the safe recycling and disposal
10 of electronic wastes.” The Governor further expressed support for
11 a system that “provides incentives to design products that are less
12 toxic and more recyclable.”

13 ~~SEC. 2. Article 11.7 (commencing with Section 25243) is~~
14 ~~added to Chapter 6.5 of Division 20 of the Health and Safety Code,~~
15 ~~to read:~~

16
17 ~~Article 11.7. Phaseout of Hazardous Materials In Hazardous~~
18 ~~Electronic Devices~~

19
20 ~~25243. The Legislature finds and declares that it is in the~~
21 ~~interest of the state to establish a program modeled on the Product~~
22 ~~Stewardship Initiative undertaken by the European Economic~~
23 ~~Union to phase out the use of hazardous materials in the~~
24 ~~manufacture of hazardous electronic devices.~~

25 ~~25243.5. For purposes of this article, the following~~
26 ~~definitions apply:~~

27 ~~(a) “Hazardous electronic device” has the same meaning as~~
28 ~~defined in Section 42463 of the Public Resources Code.~~

29 ~~(b) “Hazardous material” has the same meaning as defined in~~
30 ~~Section 25501.~~

31 ~~25243.7. Notwithstanding any other provision of law, on or~~
32 ~~before January 1, 2007, the department shall adopt regulations that~~
33 ~~prohibit electrical and electronic equipment put on the market~~
34 ~~from containing the chemicals that are prohibited from being~~
35 ~~contained in electrical and electronic equipment put on the market~~
36 ~~under Directive 2002/95/EC, adopted by the European Parliament~~
37 ~~and the Council of the European Union on January 27, 2003.~~

38 ~~25243.8 On or before January 1, 2005, the department shall~~
39 ~~adopt regulations prohibiting the use of an electronic or~~



1 ~~mechanical device that prevents, impedes, or limits the reuse,~~
2 ~~remanufacture, or recycling of a hazardous electronic device.~~

3 ~~SEC. 3.—~~

4 SEC. 2. Article 1.2 (commencing with Section 25108) is
5 added to Chapter 6.5 of Division 20 of the Health and Safety Code,
6 to read:

7
8
9

Article 1.2 Electronic Waste

10 25108. (a) The requirements and other provisions of Chapter
11 8.5 (commencing with Section 42460) of Part 3 of Division 30 of
12 the Public Resources Code are incorporated by reference as
13 requirements and provisions of this chapter.

14 (b) The department may, by regulation, establish management
15 standards as an alternative to one or more of the standards
16 specified in this chapter, for any specified activity that involves the
17 management of an electronic waste that the department
18 determines is hazardous or if the federal act authorizes an
19 alternative management standard for the electronic waste.

20 SEC. 3. Section 25243 is added to the Health and Safety Code,
21 to read:

22 25343. (a) For purposes of this section “electronic device”
23 has the same meaning as a “covered electronic device”, as defined
24 in subdivision (g) of Section 42463 of Public Resources Code.

25 (b) The department shall adopt regulations, in accordance with
26 this section, that prohibit an electronic device from being sold or
27 offered for sale in this state if the electronic device is prohibited
28 from being sold or offered for sale in the European Union under
29 Directive 2002/95/EC, adopted by the European Parliament and
30 the Council of the European Union on January 27, 2003.

31 (c) The regulations adopted pursuant to subdivision (a) shall
32 take effect January 1, 2007, or on or after the date the Directive
33 2002/95/EC, adopted by the European Parliament and the
34 Council of the European Union on January 27, 2003, takes effect,
35 whichever date is later.

36 (d) The department shall exclude, from the regulations adopted
37 pursuant to this section, the sale of an electronic device that
38 contains a substance that is used to comply with the consumer,
39 health, or safety requirements that are required by the
40 Underwriters Laboratories, the federal government, or the state.



1 (e) In adopting regulations pursuant to this section, the
2 department may not require the manufacture or sale of any
3 electronic device that is different than, or otherwise not prohibited
4 by, the European Union under Directive 2002/95/EC, adopted by
5 the European Parliament and the Council of the European Union
6 on January 27, 2003.

7 (f) The department may not adopt any regulations pursuant to
8 this section that impose any requirements or conditions that are in
9 addition to, or more stringent than, the requirements and
10 conditions expressly authorized by this section.

11 SEC. 4. Article 4 (commencing with Section 41516) is added
12 to Chapter 3.5 of Part 2 of Division 30 of the Public Resources
13 Code, to read:

14
15 Article 4. ~~Hazardous~~ Covered Electronic Waste

16
17 41516. (a) For purposes of this article, “~~hazardous covered~~
18 electronic waste” has the same meaning as defined in subdivision
19 (g) of Section 42463.

20 (b) On and after January 1, 2004, when a county or regional
21 agency revises the countywide or regional integrated waste
22 management plan and its elements pursuant to Section 41770, the
23 city household hazardous waste element and county household
24 hazardous waste element in the plan shall identify those actions the
25 city, county, or regional agency is taking to promote the collection,
26 consolidation, recovery, and recycling of ~~hazardous covered~~
27 electronic waste.

28 ~~SEC. 4.—~~

29 SEC. 5. Chapter 8.5 (commencing with Section 42460) is
30 added to Part 3 of Division 30 of the Public Resources Code, to
31 read:

32
33 CHAPTER 8.5. ~~HAZARDOUS~~ Covered ELECTRONIC WASTE
34 RECYCLING

35
36 Article 1. General Provisions

37
38 42460. This act shall be known, and may be cited, as the
39 ~~Hazardous~~ Covered Electronic Waste Recycling Act of 2003.



1 42461. The Legislature finds and declares all of the
2 following:

3 (a) The purpose of this chapter is to enact a comprehensive and
4 innovative system for the reuse, recycling, and proper and legal
5 disposal of ~~hazardous~~ covered electronic devices, and to provide
6 incentives to design electronic devices that are less toxic, more
7 recyclable, and that use recycled materials.

8 (b) It is the further purpose of this chapter to enact a law that
9 establishes a program that is cost free and convenient for
10 consumers and the public to return, recycle, and ensure the safe
11 and environmentally-sound disposal of ~~hazardous~~ covered
12 electronic devices.

13 (c) It is the intent of the Legislature that the cost associated with
14 the handling, recycling, and disposal of ~~hazardous~~ covered
15 electronic devices is the responsibility of the producers and
16 consumers of ~~hazardous~~ covered electronic devices, and not local
17 government or their service providers, state government, or
18 taxpayers.

19 (d) In order to reduce the likelihood of illegal disposal of these
20 hazardous materials, it is the intent of this chapter to ensure that
21 any cost associated with the proper management of ~~hazardous~~
22 covered electronic devices be internalized by the producers and
23 consumers of ~~hazardous~~ covered electronic devices at or before the
24 point of purchase, and not at the point of discard.

25 (e) Manufacturers of ~~hazardous~~ covered electronic devices, in
26 working to achieve the goals and objectives of this chapter, should
27 have the flexibility to partner with each other and with those public
28 sector entities and business enterprises that currently provide
29 collection and processing services to develop and promote a safe
30 and effective ~~hazardous~~ covered electronic device recycling
31 system for California.

32 (f) The producers of electronic products, components, and
33 devices should reduce and, to the extent feasible, ultimately phase
34 out the use of hazardous materials in those products.

35 (g) Electronic products, components, and devices, to the
36 greatest extent feasible, should be designed for extended life,
37 repair, and reuse.

38 (h) *The purpose of the Hazardous Electronic Waste Recycling*
39 *Act is to provide sufficient funding for the safe, cost-free, and*
40 *convenient collection and recycling of 100 percent of the covered*



1 *electronic waste discarded or offered for recycling in the state, to*
2 *eliminate electronic waste stockpiles and legacy devices by*
3 *December 31, 2007, to end the illegal disposal of covered*
4 *electronic devices, to establish manufacturer responsibility for*
5 *reporting to the board on the manufacturer's efforts to phase out*
6 *hazardous materials in electronic devices and increase the use of*
7 *recycled materials, and to ensure that electronic devices sold in the*
8 *state do not violate the regulations adopted by the Department of*
9 *Toxic Substances Control pursuant to Section 25343 of the Health*
10 *and Safety Code.*

11

12 Article 2. Definitions

13

14 42463. For the purposes of this chapter, the following terms
15 have the following meanings, unless the context clearly requires
16 otherwise:

17 (a) "Account" means the Electronic Waste Recovery and
18 Recycling Account created in the Integrated Waste Management
19 Fund under Section 42476.

20 (b) "Authorized collector" means any of the following:

21 (1) A city, county or district that collects ~~hazardous covered~~
22 electronic devices.

23 (2) A person or entity that is required or authorized by a city,
24 county, or district to collect ~~hazardous covered~~ electronic devices
25 pursuant to the terms of a contract, license, permit, or other written
26 authorization.

27 (3) A non-profit organization that collects or accepts ~~hazardous~~
28 ~~covered~~ electronic devices.

29 (4) A manufacturer or agent of the manufacturer that collects,
30 consolidates, and transports ~~hazardous covered~~ electronic devices
31 for recycling from consumers, businesses, institutions, and other
32 generators.

33 (5) Any entity that collects, handles, consolidates, and
34 transports ~~hazardous covered~~ electronic devices and has filed a
35 notification with the department pursuant to Article 7
36 (commencing with Section 66273.80) of Chapter 23 of Division
37 4.5 of Title 22 of the California Code of Regulations.

38 (c) "Board" means the California Integrated Waste
39 Management Board.



1 (d) (1) “Consumer” means a purchaser or owner of a
2 ~~hazardous covered~~ electronic device.

3 (2) (A) “Consumer” does not include a manufacturer who
4 purchases specialty or medical electronic equipment that is a
5 ~~hazardous covered~~ electronic device.

6 (B) For purposes of this paragraph, “medical electronic
7 equipment” includes, but is not limited to, radiotherapy
8 equipment, cardiology equipment, dialysis equipment, pulmonary
9 ventilators, nuclear medicine equipment, laboratory equipment
10 for in-vitro diagnosis, analyzers and freezers.

11 (C) For purposes of this paragraph “specialty electronic
12 equipment” includes, but is not limited to, smoke detectors,
13 heating regulators, and thermostats.

14 (e) “Department” means the Department of Toxic Substances
15 Control.

16 ~~(f) “Electronic waste collection fee” or “E-Waste collection
17 fee” means the electronic waste collection fee imposed pursuant
18 to Article 3 (commencing with Section 42464).~~

19 ~~(g) “Electronic waste recycling fee” or “E-waste recycling
20 fee” means the hazardous electronics device recycling fee
21 imposed pursuant to Section 42471.~~

22 ~~(h) “Electronic waste recycler” or “E-waste recycler” means~~

23 (f) (1) “Covered electronic device” means a cathode ray tube,
24 cathode ray tube device, flat panel screen, or any other similar
25 video display device with a screen size that is greater than four
26 inches in size measured diagonally and which, when discarded or
27 disposed, would be a hazardous waste pursuant to Chapter 6.5
28 (commencing with Section 25100) of Division 20 of the Health and
29 Safety Code.

30 (2) “Covered electronic device” does not include an
31 automobile or a large piece of commercial or industrial
32 equipment, including, but not limited to, commercial medical
33 equipment, that contains a cathode ray tube, cathode ray tube
34 device, flat panel screen, or other similar video display device that
35 is contained within, and is not separate from, the larger piece of
36 industrial or commercial equipment.

37 (g) “Covered electronic waste” or “covered e-waste” means a
38 covered electronic device that is discarded or disposed.



1 (h) “Covered electronic waste recycling fee” or “covered
2 e-waste recycling fee” means the fee imposed pursuant to Article
3 3 (commencing with Section 42464).

4 (i) “Covered electronic waste recycler” or “covered e-waste
5 recycler” means any of the following:

6 (1) A person who engages in the manual or mechanical
7 separation of ~~hazardous~~ covered electronic devices to recover
8 components and commodities contained therein for the purpose of
9 reuse or recycling.

10 (2) A person certified by the department who changes the
11 physical or chemical composition of a ~~hazardous~~ covered
12 electronic device by deconstructing, size reduction, crushing,
13 cutting, sawing, compacting, shredding, or refining for purposes
14 of segregating components, for purposes of recovering or
15 recycling those components, and who arranges for the transport of
16 those components to an end-user.

17 (3) A ~~manufacturer with a hazardous electronic waste~~
18 ~~recycling plan certified by the board pursuant to this chapter.~~

19 (i) ~~“Electronics waste recovery payment” or “E-waste~~
20 ~~recovery payment” means the amount established pursuant to~~
21 ~~Section 42477 and paid by the board to an electronics waste~~
22 ~~recycler pursuant to Section 42479, to be transmitted to the~~
23 ~~authorized collector, to cover the net cost of an authorized recycler~~
24 ~~to collect, consolidate, and transport hazardous electronic wastes~~
25 ~~generated in this state to the e-waste recycler.~~

26 (j) ~~“Electronics waste recycling payment” or “E-waste~~
27 ~~recycling payment” means an amount established pursuant to~~
28 ~~Section 42478 and paid by the board to an electronics waste~~
29 ~~recycler pursuant to Section 42479 to cover the net cost of an~~
30 ~~e-waste recycler to receive, process, and recycle hazardous~~
31 ~~electronic waste from an authorized collector.~~

32 (k) ~~“Hazardous electronic device” means a cathode ray tube,~~
33 ~~or cathode ray tube device or any other video display device that~~
34 ~~is greater than four inches in size and that the department~~
35 ~~determines, when discarded, would be a hazardous waste for~~
36 ~~purposes of Chapter 6.5 (commencing with Section 25100) of~~
37 ~~Division 20 of the Health and Safety Code.~~

38 (l) ~~“Hazardous electronic waste” means a cathode ray tube, or~~
39 ~~cathode ray tube device or any other video display device that is~~
40 ~~greater than 4 inches in size and that the department determines is~~



1 ~~a hazardous waste pursuant to Chapter 6.5 (commencing with~~
2 ~~Section 25100) of Division 20 of the Health and Safety Code.~~

3 ~~(m)~~

4 (j) *“Electronic waste recycling payment” means a payment*
5 *made by the board to an authorized collector of covered electronic*
6 *waste pursuant to Section 42477.*

7 (k) *“Hazardous material” has the same meaning as defined in*
8 *Section 25501 of the Health and Safety Code.*

9 ~~(n) “Manufacturer” means any person who manufactures a~~
10 ~~hazardous electronic device and sells that hazardous electronic~~
11 ~~device in this state.~~

12 ~~(o) “Registrant” means the manufacturer, or an independent~~
13 ~~party that submits the plan required by Section 42468 instead of~~
14 ~~the manufacturer.~~

15 ~~(p) “Retailer” means a person who sells a hazardous~~

16 (l) *“Manufacturer” means any of the following:*

17 (A) *A person who manufactures a covered electronic device*
18 *sold in this state.*

19 (B) *A person who sells a covered electronic device in this state*
20 *under a person’s brand name.*

21 (m) *“Retailer” means a person who sells a covered electronic*
22 *device in the state to a consumer but who did not manufacture the*
23 *device. “Retailer” includes a manufacturer of a covered*
24 *electronic device who sells that covered electronic device directly*
25 *to a consumer through any means, including, but not limited to,*
26 *transactions conducted through sales outlets, catalogs, or the*
27 *Internet, or any other, similar electronic means, but does not*
28 *include a sale that is a wholesale transaction with a distributor or*
29 *retailer.*

30 (n) (1) *“Sell” or “sale” means any transfer for consideration*
31 *of title or of the right to use, by lease or sales contract, including,*
32 *but not limited to, transactions conducted through sales outlets,*
33 *catalogs, or the Internet, or any other, similar electronic means,*
34 *but does not include a wholesale transaction with a distributor or*
35 *a retailer.*

36 (2) *For purposes of this subdivision and subdivision (m),*
37 *“distributor” means a person who sells a covered electronic*
38 *device to a retailer.*

39



1 Article 3. ~~Electronic Waste Collection and Consolidation~~
2 *Covered Electronic Waste Recycling Fee*

3
4 ~~42464. The Legislature finds and declares all of the~~
5 ~~following:~~

6 ~~(a) The cost of collection, consolidation, and recycling of~~
7 ~~electronic waste should be shared among consumers and the~~
8 ~~manufacturers of those devices.~~

9 ~~(b) The cost of collection and consolidation of electronic waste~~
10 ~~should be covered through the imposition of a collection fee at the~~
11 ~~point of retail sale of a hazardous electronic device.~~

12 ~~42464.1. (a) (1) A manufacturer or retailer selling a~~
13 ~~hazardous electronic device in this state that is subject to this~~
14 ~~chapter shall collect an electronic waste collection fee in the~~
15 ~~amount specified in subdivision (b) or (c), as applicable, from the~~
16 ~~consumer at the time and point of purchase in the amount~~
17 ~~established pursuant to this section. The fee shall be collected for~~
18 ~~all sales of hazardous electronic devices in this state, including, but~~
19 ~~not limited to, a sale made electronically, over the Internet,~~
20 ~~telephonically, or by any other means that results in a hazardous~~
21 ~~electronic device being transported or shipped into the state.~~

22 ~~(2) The electronic waste collection fee collected pursuant to~~
23 ~~42464. (a) On and after April 1, 2004, a covered electronic~~
24 ~~waste recycling fee is hereby imposed upon the first sale in the state~~
25 ~~of a covered electronic device to a consumer by a retailer.~~

26 ~~(b) A retailer that sells a covered electronic device to a~~
27 ~~consumer shall collect the fee imposed under subdivision (a) for~~
28 ~~each covered electronic device sold by the retailer in the following~~
29 ~~amounts:~~

30 ~~(1) Six dollars (\$6) for each covered electronic device with a~~
31 ~~screen size of less than 15 inches measured diagonally.~~

32 ~~(2) Eight dollars (\$8) for each covered electronic device with~~
33 ~~a screen size greater than or equal to 15 inches but less than 35~~
34 ~~inches measured diagonally.~~

35 ~~(3) Ten dollars (\$10) for each covered electronic device with a~~
36 ~~screen size greater than or equal to 35 inches measured diagonally.~~

37 ~~(c) The electronic waste recycling fee collected pursuant to this~~
38 ~~section shall be transmitted to the board in accordance with a~~
39 ~~schedule and procedure that the board shall establish pursuant to~~
40 ~~Section 42475. The electronic waste collection fees shall be to~~



1 *Sections 42475 and 42475.2. The covered electronic waste*
2 *recycling fees shall be deposited in the account pursuant to Section*
3 *42476.*

4 ~~(3) A manufacturer or retailer selling a hazardous electronic~~

5 *(d) A retailer selling a covered electronic device may retain 3*
6 *percent of the ~~electronic waste collection~~ covered electronic waste*
7 *recycling fee as reimbursement for any costs associated with the*
8 *collection of the fee.*

9 ~~(b) On or before January 1, 2006, and on or before January 1~~
10 ~~of every second year thereafter, the board shall establish, and~~
11 ~~adjust as needed, an electronics waste collection fee schedule for~~
12 ~~hazardous electronic devices sold in this state. The board shall~~
13 ~~establish the amount of the electronics waste collection fee at a~~
14 ~~level that is sufficient to generate revenues to make the e-waste~~
15 ~~recovery payments authorized pursuant to Section 42479, to cover~~
16 ~~the costs of an authorized collector for collecting, consolidating,~~
17 ~~and transporting hazardous electronic devices generated in this~~
18 ~~state, in a manner that is cost-free and convenient to consumers.~~

19 ~~(c) On and after January 1, 2004, and on and before December~~
20 ~~31, 2005, the electronics waste collection fee shall be collected in~~
21 ~~the following amounts:~~

22 ~~(1) Three dollars (\$3) for each hazardous electronic device~~
23 ~~with a screen size of less than 12 inches measured diagonally.~~

24 ~~(2) Five dollars (\$5) for each hazardous electronic device with~~
25 ~~a screen size greater than or equal to 12 inches but less than 20~~
26 ~~inches measured diagonally.~~

27 ~~(3) Seven dollars (\$7) for each hazardous electronic device~~
28 ~~with a screen size greater than or equal to 20 inches but less than~~
29 ~~28 inches measured diagonally.~~

30 ~~(4) Nine dollars (\$9) for each hazardous electronic device with~~
31 ~~a screen size greater than or equal to 28 inches but less than 35~~
32 ~~inches measured diagonally.~~

33 ~~(5) Ten dollars (\$10) for each hazardous electronic device with~~
34 ~~a screen size greater than 35 inches measured diagonally.~~

35 ~~(6) Notwithstanding paragraphs (1) to (5), inclusive, three~~
36 ~~dollars (\$3) for each laptop or notebook personal computer that is~~
37 ~~a hazardous electronic device.~~

38 *(e) On and after July 1, 2005, and at least once every two years*
39 *thereafter, the board shall review, at a public hearing, the covered*
40 *electronic waste recycling fee and shall make any adjustments to*



1 *the fee to ensure that there are sufficient revenues in the account*
 2 *to fund the covered electronic waste recycling program established*
 3 *pursuant to this chapter. The board shall base any adjustment of*
 4 *the covered electronic waste recycling fee on the both of following*
 5 *factors:*

6 (1) *The sufficiency, and any surplus, of revenues in the account*
 7 *to fund the collection, consolidation, and recycling of 100 percent*
 8 *of the covered electronic waste that is projected to be recycled in*
 9 *the state.*

10 (2) *The sufficiency of revenues in the account for the board to*
 11 *administer, enforce, and promote the program established*
 12 *pursuant to this chapter, plus a prudent reserve not to exceed 5*
 13 *percent of the amount in the account.*

14 42464.2. *The board may collect the fees imposed pursuant to*
 15 *this section pursuant to the Fee Collection Procedures Law (Part*
 16 *30 (commencing with Section 55001) of Division 2 of the Revenue*
 17 *and Taxation Code). The board may contract with the State Board*
 18 *of Equalization or another party for collection of fees due under*
 19 *this section.*

20

21 Article 4. Manufacturer Responsibility

22

23 42465. ~~It~~ *On and after July 1, 2004, it shall be unlawful to sell*
 24 *a hazardous covered electronic device to a consumer in this state*
 25 *unless the board determines the manufacturer of that hazardous*
 26 *electronic board or department determines that the manufacturer*
 27 *of that covered electronic device demonstrates compliance with*
 28 *this chapter.*

29 42465.1. *On and after January 1, 2005, a person may not sell*
 30 *or offer for sale in this state a hazardous covered electronic device*
 31 *unless the device is labeled with the name of the manufacturer or*
 32 *the manufacturer's brand label, so that it is readily visible.*

33 42465.2. ~~On or before July 1, 2004~~ *(a) On or before July 1,*
 34 *2005, and at least once annually thereafter as determined by the*
 35 *board, each manufacturer of a hazardous electronic device sold in*
 36 *this state shall do both of the covered electronic device who sells*
 37 *those devices in this state shall do all of the following:*

38 ~~(a) Report to the board the number of hazardous electronic~~
 39 ~~devices sold by the manufacturer in this state during the previous~~
 40 ~~calendar year.~~



1 ~~(b)~~

2 (1) Submit to the board a report that includes all of the
3 following information:

4 (A) An estimate of the number of covered electronic devices
5 sold by the manufacturer in the state during the previous year.

6 (B) A baseline or set of baselines that show the amounts of
7 hazardous materials contained in those covered electronic devices
8 by the manufacturer in that year and the reduction in the use of
9 those hazardous materials from the previous year.

10 (C) A baseline or set of baselines that show the amount of
11 recycled materials contained in covered electronic devices sold by
12 the manufacturer in that year and the increase in the use of those
13 recycled materials from the previous year.

14 (D) A baseline or a set of baselines that describe any efforts to
15 design covered electronic devices for recycling and goals and
16 plans for further increasing design for recycling.

17 (E) Any other information determined by the board to be
18 necessary to ensure compliance with this chapter.

19 (2) Make information available to consumers, that describes
20 where and how to return, recycle, and dispose of the hazardous
21 covered electronic device and opportunities and locations for the
22 collection or return of the device, through the use of a toll-free
23 telephone number, Internet Web site, and information labeled on
24 the device, included in the packaging, or accompanying the sale of
25 the hazardous electronic device.

26 ~~42466. (a) Except as specified in subdivision (b), on and after~~
27 ~~January 1, 2006, and each year thereafter, the board shall establish~~
28 ~~annual recycling targets for hazardous electronic devices. In~~
29 ~~implementing this section, the board shall do all of the following:~~

30 ~~(1) Design and adopt recycling targets to establish a specific~~
31 ~~and measurable set of standards of overall program success and~~
32 ~~individual manufacturer accountability for a manufacturer's~~
33 ~~electronics recycling plans.~~

34 ~~(2) Develop and adopt recycling targets, with input from~~
35 ~~manufacturers, retailers, electronic waste recyclers, and~~
36 ~~collectors, that reflect projections of hazardous electronic device~~
37 ~~sales, rates of obsolescence, and stockpiles.~~

38 ~~(3) Develop and adopt recycling targets that achieve the~~
39 ~~elimination of hazardous electronic device stockpiles and legacy~~



1 ~~devices by the end of the year 2007 and end the illegal disposal of~~
2 ~~hazardous electronic devices.~~

3 ~~(b) For the calendar year 2006, the recycling targets for the~~
4 ~~amount of hazardous electronic devices recycled in the state shall~~
5 ~~equal 50 percent or more of the hazardous electronic devices sold~~
6 ~~in the state during the calendar year 2005.~~

7 ~~(c) Notwithstanding the recycling targets established pursuant~~
8 ~~to this section, to the extent that any federal and state law or~~
9 ~~regulation or local ordinance prohibits the disposal of hazardous~~
10 ~~electronic waste at a solid waste disposal facility, hazardous~~
11 ~~electronic waste shall be managed in accordance with those~~
12 ~~applicable laws, regulations, and with all other ordinances.~~

13 ~~42467. (a) Except as provided in Section 42471, a~~
14 ~~manufacturer of a hazardous electronic device sold in the state~~
15 ~~shall establish and implement a hazardous electronic device~~
16 ~~recycling system that is certified by the board pursuant to this~~
17 ~~article for the receipt, processing, and recycling of the hazardous~~
18 ~~electronic waste that results from the hazardous electronic device~~
19 ~~sold by that manufacturer.~~

20 ~~(b) A manufacturer of a hazardous electronic device that sells~~
21 ~~a hazardous electronic device in this state shall notify the board of~~
22 ~~its intent to sell a hazardous electronic device.~~

23 ~~(c) Any manufacturer or registrant that intends to export~~
24 ~~hazardous electronic waste to a foreign destination shall comply~~
25 ~~with all of the following prior to export:~~

26 ~~(1) Notify the department of the contents, volume, and~~
27 ~~destination of the proposed export.~~

28 ~~(2) Demonstrate that hazardous electronic waste will be~~
29 ~~handled in a manner that is at least as protective of public health~~
30 ~~and the environment as the laws, regulations, and ordinances~~
31 ~~applicable to the recycling and disposal of these devices in this~~
32 ~~state.~~

33 ~~(3) Demonstrate that the importation of hazardous electronic~~
34 ~~waste is not prohibited by any applicable law or regulation of the~~
35 ~~country of destination.~~

36 ~~(4) Demonstrate that the hazardous electronic waste is being~~
37 ~~exported for the purposes of reuse or recycling.~~

38 ~~(d) In order to minimize costs and confusion in developing a~~
39 ~~hazardous electronic device recovery system under this section,~~
40 ~~manufacturers and registrants are encouraged to coordinate with~~



1 and, to the extent feasible, support the utilization of any existing
2 public and private systems for the collection, handling,
3 transportation, processing, recovery, reuse, and recycling of
4 hazardous electronic waste.

5 (e) A city, county, or public agency may not require consumers
6 to use a system required under this section to recycle hazardous
7 electronic devices to the exclusion of other programs legally
8 available. This chapter anticipates that hazardous electronic
9 device recovery systems in addition to those provided by
10 manufacturers and registrants under this section may be available
11 to consumers in the state. Nothing in this chapter is deemed to
12 prohibit or restrict any other system or to prohibit or restrict any
13 other person from receiving, storing, transporting, or recycling
14 hazardous electronic devices.

15 42468. (a) Except as provided in Section 42471, a
16 manufacturer or a registrant of a hazardous electronic device sold
17 in the state shall prepare and submit to the board a hazardous
18 electronic waste recycling plan for a hazardous electronic device
19 recycling system that meets all of the following conditions:

20 (1) The plan demonstrates that the hazardous electronic device
21 recycling system will result in the safe and efficient receipt,
22 processing, and recycling of hazardous electronic waste generated
23 in this state from authorized collectors and other sources at no cost
24 to consumers and authorized collectors and is capable of meeting
25 the recycling targets established pursuant to Section 42466.

26 (2) The plan includes a signed certification that any facility
27 utilized by the manufacturer or registrant for the handling,
28 processing, refurbishment, or recycling of a hazardous electronic
29 devices meets all of the following standards:

30 (A) The facility has been inspected by the department or the
31 Certified Unified Program Agency, as defined in Section 25404 of
32 the Health and Safety Code, and has been found to be operating in
33 compliance with all applicable laws, regulations, and ordinances.

34 (B) The facility is accessible during normal business hours for
35 inspection by state or local regulatory agencies.

36 (C) The facility meets or exceeds the standards specified in
37 Chapter 1 (commencing with Section 1171) of Part 4 of Division
38 2, Division 4 (commencing with Section 3200), and Division 5
39 (commencing with Section 6300), of the Labor Code or, if all or



1 part of the work is to be performed in another state, the equivalent
2 requirements of that state.

3 (3) The plan demonstrates that the manufacturer or registrant
4 of the hazardous electronic device will make available information
5 to every consumer through the use of a toll-free telephone number,
6 Internet Web site, and information either labeled on the device,
7 included in the packaging, or accompanying the sale of the
8 hazardous electronic device, that describes where and how to
9 return, recycle, and dispose of the hazardous electronic device and
10 opportunities and locations for the collection or return of the
11 device.

12 (4) The plan demonstrates that all collection, handling,
13 transportation, dismantling, processing, refurbishment, and
14 recycling of the hazardous electronic device will be done safely
15 and in conformance with all applicable laws, regulations, and
16 ordinances.

17 (5) The plan demonstrates that hazardous electronic waste
18 recovered may not be disposed in violation of any applicable law,
19 regulation, or ordinance.

20 (6) The plan demonstrates that hazardous electronic devices
21 sent to a foreign destination will be handled in a manner that is at
22 least as protective of public health and the environment as the laws,
23 regulations, and ordinances applicable to the recycling and
24 disposal of these devices in this state and ensures that no hazardous
25 electronic device will be exported to any country where the
26 importation of hazardous waste is prohibited.

27 (7) The plan demonstrates the capability of meeting or
28 exceeding the recovery targets established by the board pursuant
29 to subdivision (a) of Section 42466 or specified in subdivision (b)
30 of Section 42466.

31 (8) The plan may include contracts, service agreements, lease
32 agreements, or any other information that demonstrates that the
33 manufacturer or registrant has binding agreements for accepting
34 or otherwise taking back and recycling hazardous electronic
35 devices from commercial, governmental, or other institutional
36 customers.

37 (b) If the registrant changes the system that has been submitted
38 to the board, before the change can become effective, the registrant
39 shall submit the changed system to the board and revise its Internet



1 ~~Web site and toll-free telephone information to be consistent with~~
2 ~~the changed system.~~

3 ~~(c) The registrant that receives a hazardous electronic device~~
4 ~~for recycling, refurbishment, or reuse may either recycle,~~
5 ~~refurbish, or reuse, including resell, the hazardous electronic~~
6 ~~device. Except to the extent otherwise required by law, the~~
7 ~~manufacturer and registrant do not have responsibility for any data~~
8 ~~that may be on the hazardous electronic device if an information~~
9 ~~storage device is included with the hazardous electronic device.~~

10 ~~(d) Once per calendar year, each registrant shall file a report~~
11 ~~with the board that describes the implementation of the system~~
12 ~~during the year. The report shall identify the total number of~~
13 ~~hazardous electronic devices received during the preceding year,~~
14 ~~together with the total number of devices reused or refurbished for~~
15 ~~reuse, and the total number of devices recycled or resold. The~~
16 ~~report shall also describe the processes and methods used to~~
17 ~~recycle, refurbish, or reuse the hazardous electronic devices and,~~
18 ~~in particular, the report shall identify any disassembly, physical~~
19 ~~recovery operation including, but not limited to, for, crushing,~~
20 ~~grinding, or glass to glass recycling, or other operation that was~~
21 ~~used, and describe where it took place.~~

22 ~~42469. (a) Within 90 days of the date that the board receives~~
23 ~~a hazardous electronic device recycling plan submitted pursuant~~
24 ~~to Section 42468, the board shall review, identify, and suggest~~
25 ~~amendments, and certify or disapprove the plan at a duly noticed~~
26 ~~public hearing.~~

27 ~~(b) The board shall certify a hazardous electronic device~~
28 ~~recycling plan only if the board determines there is substantial~~
29 ~~evidence in the record that the plan will comply with all of the~~
30 ~~standards established pursuant to Section 42468 and be~~
31 ~~implemented in accordance with those standards.~~

32 ~~(c) The board shall establish a schedule for the review and~~
33 ~~action on a hazardous electronic device recycling plan to ensure~~
34 ~~the consistent, timely, and thorough review of each plan submitted~~
35 ~~pursuant to this article.~~

36 ~~42470. A registrant may partner with one or more~~
37 ~~manufacturers or other parties, as a collective registrant, to prepare~~
38 ~~and submit to the board a joint hazardous electronic device~~
39 ~~recycling plan to comply with Section 42468.~~



1 ~~42471. (a) As an alternative to complying with Section~~
2 ~~42468, a manufacturer of a hazardous electronic device may remit~~
3 ~~to the board the electronic waste recycling fee on each hazardous~~
4 ~~electronic device sold by the manufacturer in the state.~~
5 ~~(b) On and after January 1, 2005, a manufacturer who elects to~~
6 ~~pay the electronic waste recycling fee shall pay the fee pursuant to~~
7 ~~this section for each hazardous electronic device produced by the~~
8 ~~manufacturer and sold to a purchaser in this state.~~
9 ~~(c) On January 1, 2005, and annually thereafter, the board shall~~
10 ~~establish and revise as necessary an electronic waste recycling fee~~
11 ~~schedule for hazardous electronic devices sold to purchasers in this~~
12 ~~state.~~
13 ~~(d) The board shall base the amount of the electronic waste~~
14 ~~recycling fee on the net cost of an e-waste recycler to receive,~~
15 ~~process, and recycle a hazardous electronic device from an~~
16 ~~authorized collector, and shall design the fee to generate sufficient~~
17 ~~funds to make the electronic waste recycling payments pursuant to~~
18 ~~Section 42479, in an amount that covers the net cost of an~~
19 ~~electronic waste recycler to receive, process and recycle the~~
20 ~~hazardous electronic waste projected to be generated in this state.~~
21 ~~(e) A manufacturer who elects to pay the electronic waste~~
22 ~~recycling fee shall pay the fee for any sale of a hazardous electronic~~
23 ~~device produced by the manufacturer, including, but not limited to,~~
24 ~~a sale made electronically, over the Internet, telephonically, or by~~
25 ~~any other means that result in a hazardous electronic device being~~
26 ~~shipped to or used in this state.~~
27 ~~(f) Except as provided otherwise pursuant to subdivision (g),~~
28 ~~the fees required to be paid pursuant to this section shall be~~
29 ~~transmitted to the board in accordance with a schedule and~~
30 ~~procedure to be established by the board pursuant to Section~~
31 ~~42475.~~
32 ~~(g) The board may collect the fees imposed pursuant to this~~
33 ~~section pursuant to the Fee Collection Procedures Law (Part 30~~
34 ~~(commencing with Section 55001) of Division 2 of the Revenue~~
35 ~~and Taxation Code). The board may contract with the State Board~~
36 ~~of Equalization or another party for collection of one or more of~~
37 ~~the fees due under this section.~~
38 ~~(h) The electronic waste recycling fees collected pursuant to~~
39 ~~this section shall be deposited in the account established pursuant~~
40 ~~to Section 42476.~~



1 ~~42472. The imposition of an electronics waste collection fee~~
2 ~~and electronic waste recycling fee is a matter of telephone number,~~
3 ~~Internet Web site, information labeled on the device, information~~
4 ~~included in the packaging, or information accompanying the sale~~
5 ~~of covered electronic device.~~

6 (b) Any information submitted to the board pursuant to
7 subdivision (a) that is proprietary in nature or a trade secret shall
8 be subject to protection under state laws and regulations
9 governing that information.

10 42465.3. On or before April 1, 2004, a manufacturer shall
11 inform the retailer if a covered electronic device sold by that
12 manufacturer is subject to the covered electronic waste recycling
13 fee established pursuant to this chapter.

14
15 Article 5. Administration

16
17 42472. (a) The imposition of a covered electronic waste
18 recycling fee is a matter of statewide interest and concern and is
19 applicable uniformly throughout the state. A city, county, city and
20 county, or other public agency may not adopt, implement, or
21 enforce an ordinance, resolution, regulation, or rule requiring a
22 consumer, manufacturer, or retailer to recycle ~~hazardous~~
23 ~~electronic devices or imposing an electronic waste collection fee~~
24 ~~or covered electronic devices or imposing a covered electronic~~
25 waste recycling fee upon a manufacturer, retailer, or consumer,
26 unless expressly authorized under this chapter.

27 (b) Nothing in this section prohibits the adoption,
28 implementation, or enforcement of any local ordinance,
29 resolution, regulation, or rule governing curbside or drop off
30 recycling programs operated by, or pursuant to a contract with, a
31 city, county, city and county, or other public agency, including any
32 action relating to fees for these programs. Nothing in this section
33 shall be construed to affect any contract, franchise, permit,
34 license, or other arrangement regarding the collection or
35 recycling of solid waste or household hazardous waste.

36 42473. The Legislature declares that the imposition of a
37 ~~electronic waste collection fee and an covered electronic waste~~
38 recycling fee would not result in the imposition of a tax within the
39 meaning of Article XIII A of the California Constitution, because
40 the amount and nature of the fee has a fair and reasonable

1 relationship to the adverse environmental burdens imposed by the
 2 disposal of ~~hazardous covered~~ electronic devices and there is a
 3 sufficient nexus between the fee imposed and the use of those fees
 4 to support the recycling and reuse of these devices.

5 42474. (a) Civil liability in an amount of up to two thousand
 6 five hundred dollars (\$2,500) per offense may be administratively
 7 imposed by the board for each sale of a ~~hazardous covered~~
 8 electronic device ~~for which an electronic waste collection fee has~~
 9 ~~not been paid pursuant to Section 42464.1 or which is either not~~
 10 ~~covered by a hazardous electronic device recycling system~~
 11 ~~certified by the board pursuant to Section 42467 or for which the~~
 12 ~~electronic waste recycling fee has been paid pursuant to Section~~
 13 ~~42471. for which a covered electronic waste recycling fee has not~~
 14 ~~been paid pursuant to Section 42464.~~

15 (b) A civil penalty in an amount of up to five thousand dollars
 16 (\$5,000) per offense may be imposed by a superior court for each
 17 sale of a ~~hazardous electronic device for which an electronic waste~~
 18 ~~collection fee has not been paid pursuant to Section 42464.1 or~~
 19 ~~which is either not covered by a hazardous electronic device~~
 20 ~~recycling system certified by the board pursuant to Section 42467~~
 21 ~~or for which the electronic waste recycling fee has been paid~~
 22 ~~pursuant to Section 42471. sale of a covered electronic device for~~
 23 ~~which a covered electronic waste recycling fee has not been paid~~
 24 ~~pursuant to Section 42464.~~

25 (c) Civil liability in an amount of up to twenty-five thousand
 26 dollars (\$25,000) may be administratively imposed by the board
 27 against manufacturers ~~or registrants~~ for failure to comply with
 28 ~~Section 42465, 42467, 42468, or 42471.~~

29

30

Article 5.—Administration

31 *this chapter, except as otherwise provided in subdivision (a).*

32 42474.5. *This chapter and all regulations adopted pursuant*
 33 *to this chapter may be enforced by the department pursuant to*
 34 *Chapter 6.5 (commencing with Section 25100) of Division 20 of*
 35 *the Health and Safety Code.*

36 42475. (a) The board shall administer this chapter in
 37 consultation with the department.

38 (b) The board may adopt any regulations pursuant to Chapter
 39 3.5 (commencing with Section 11340) of Part 1 of Division 3 of



1 Title 2 of the Government Code that are necessary to implement
2 this chapter.

3 (c) The board shall adopt regulations pursuant to Chapter 3.5
4 (commencing with Section 11340) of Part 1 of Division 3 of Title
5 2 of the Government Code that ensure the protection of any
6 proprietary information submitted to the board by a manufacturer
7 of ~~hazardous~~ covered electronic devices.

8 (d) The board may prepare, publish, or issue any materials that
9 the board determines to be necessary for the dissemination of
10 information concerning the activities of the board under this
11 chapter.

12 (e) In carrying out this chapter, the board may solicit and use
13 any and all expertise available in other state agencies, including,
14 but not limited to, the department, the Department of
15 Conservation, and the State Board of Equalization.

16 *42475.1. The department may adopt regulations pursuant to*
17 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
18 *Division 3 of Title 2 of the Government Code that are necessary to*
19 *implement this chapter, and any other regulations that the*
20 *department determines are necessary to implement the provisions*
21 *of this chapter in a manner that is enforceable.*

22 *42475.2. (a) The board and the department may adopt*
23 *regulations to implement this chapter as emergency regulations.*

24 *(b) The emergency regulations adopted pursuant to this*
25 *chapter shall be adopted by the board and the department in*
26 *accordance with Chapter 3.5 (commencing with Section 11340) of*
27 *Part 1 of Division 3 of Title 2 of the Government Code, and for the*
28 *purposes of that chapter, including Section 11349.6 of the*
29 *Government Code, the adoption of these regulations is an*
30 *emergency and shall be considered by the Office of Administrative*
31 *Law as necessary for the immediate preservation of the public*
32 *peace, health, and safety, and general welfare. Notwithstanding*
33 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
34 *Division 3 of Title 2 of the Government Code, any emergency*
35 *regulations adopted by the department pursuant to this section*
36 *shall be filed with, but not be repealed by, the Office of*
37 *Administrative Law and shall remain in effect for a period of two*
38 *years or until revised by the department or the board, whichever*
39 *occurs sooner.*



1 42475.3. *The board shall convene a covered electronic waste*
2 *working group comprised of representatives from manufacturers*
3 *of covered electronic devices and other interested parties to*
4 *develop and, by July 1, 2005, advise the board and the State and*
5 *Consumer Services Agency on environmental purchasing criteria*
6 *that may be used by state agencies to identify covered electronic*
7 *devices with reduced environmental impacts. In defining criteria,*
8 *the group shall consider the environmental impacts of products*
9 *over their entire life cycle, as well as tradeoffs in other product*
10 *attributes such as safety, product functionality, and cost. The group*
11 *shall also consider any federal product evaluation or rating*
12 *system, or market based system to promote the development and*
13 *sale of environmentally conscious products.*

14 42475.4. (a) *The board shall annually establish, and update*
15 *as necessary, statewide recycling goals for covered electronic*
16 *waste. In implementing this section, the board shall do all of the*
17 *following:*

18 (1) *Report to the Legislature and the public on the amount of*
19 *covered electronic devices sold in the state in the previous year.*

20 (2) *Report to the Legislature and the public on the amount of*
21 *covered electronic waste recycled in the state in the previous year.*

22 (3) *Develop and adopt recycling goals, with input from*
23 *manufacturers, retailers, covered electronic waste recyclers, and*
24 *collectors, that reflect projections of covered electronic device*
25 *sales, rates of obsolescence, and stockpiles.*

26

27 Article 6. Financial Provisions

28

29 42476. (a) *The board shall deposit all fees or fines collected*
30 *under this chapter into the Electronic Waste Recovery and*
31 *Recycling Account, which is hereby created in the Integrated*
32 *Waste Management Fund. The funds in the Electronic Waste*
33 *Recovery and Recycling Account may be expended by the board*
34 *or department, upon appropriation by the Legislature, for the*
35 *following purposes:*

36 (1) *To make electronic waste recovery payments to an*
37 *authorized collector of ~~hazardous electronics~~ covered electronic*
38 *waste pursuant to Section 42479.*

39 (2) *To make electronic waste recycling payments to a ~~certified~~*
40 *electronic waste recyclers of ~~hazardous electronics wastes~~ covered*



1 *electronic waste recyclers of covered electronic waste* pursuant to
2 Section 42479.

3 (3) To provide for costs of the board and the department to
4 administer this chapter.

5 (4) To provide funding to the department to implement and
6 enforce Chapter 6.5 (commencing with Section 25100) of
7 Division 20 of the Health and Safety Code, as that chapter relates
8 to ~~hazardous covered~~ *covered* electronic devices, and any regulations
9 adopted by the department pursuant to that chapter.

10 ~~(b) If, after the board allocates the amount authorized to be~~
11 ~~expended pursuant to subdivision (a), there is any balance~~
12 ~~remaining in the Electronic Waste Recovery and Recycling~~
13 ~~Account, the board may expend the specified portion of any~~
14 ~~projected balance, upon appropriation by the Legislature, for the~~
15 ~~following purposes:~~

16 (1) ~~To provide grant funds to local governments for the cleanup~~
17 ~~of hazardous electronic devices that are disposed of in violation of~~
18 ~~applicable state and local laws, ordinance and regulations, and to~~
19 ~~establish and maintain local programs for the convenient and free~~
20 ~~collection and recycling of hazardous electronics and hazardous~~
21 ~~electronic devices.~~

22 (2) ~~To provide grants to nonprofit agencies that accept~~
23 ~~hazardous electronic devices for refurbishing or recycling.~~

24 (3) ~~To provide financial incentives to manufacturers of~~
25 ~~hazardous electronic devices to encourage consumers to return the~~
26 ~~devices for processing, or recycling, and to assist manufacturers~~
27 ~~in collecting, processing, or recycling hazardous electronic~~
28 ~~devices.~~

29 (4) ~~To establish a public information program to educate the~~
30 ~~public on the hazards of improper hazardous electronic device~~
31 ~~storage and disposal and on the opportunities to recycle hazardous~~
32 ~~electronic devices. The board may not expend more than one~~
33 ~~percent of funds in the account may be used for the purpose of~~
34 ~~implementing this paragraph.~~

35 ~~(e)~~

36 ~~(b) Notwithstanding Section 16475 of the Government Code,~~
37 ~~any interest earned upon funds in the Electronic Waste Recovery~~
38 ~~and Recycling Account shall be deposited in that account for~~
39 ~~expenditure pursuant to this chapter.~~



1 (c) *The board may expend not more than 1 percent of the funds*
2 *annually deposited in the Electronic Waste Recovery and*
3 *Recycling Account for the purposes of establishing the public*
4 *information program to educate the public in the hazards of*
5 *improper covered electronic device storage and disposal and on*
6 *the opportunities to recycle covered electronic devices.*

7 (d) *The board may not provide any ~~grant or~~ payment for*
8 *~~hazardous~~ covered electronic devices unless the materials will be*
9 *handled in compliance with all statutes and regulations regarding*
10 *the export of hazardous wastes. No ~~grant or~~ payment may be made*
11 *for ~~hazardous~~ covered electronic devices exported to any country*
12 *where the export import of hazardous waste is prohibited.*

13 (e) *The board may not provide any payment for covered*
14 *electronic waste unless the materials are handled in compliance*
15 *with all statutes and regulations regarding the export of hazardous*
16 *wastes, including, but not limited to, Section 42476.5.*

17 42476.5. *Any person who intends to export covered electronic*
18 *waste to a foreign destination shall comply with all of the following*
19 *at least 60 days prior to export:*

20 (a) *Notify the department of the destination, contents, and*
21 *volume of covered electronic waste to be exported.*

22 (b) *Demonstrate that the importation of covered electronic*
23 *waste is not prohibited by any applicable law or regulation of the*
24 *country of destination and that any import is conducted in*
25 *accordance with all applicable laws. As part of this demonstration,*
26 *required import and operating licenses shall be forwarded to the*
27 *department.*

28 (c) *Demonstrate that the exportation of covered electronic*
29 *waste is conducted only in accordance with applicable*
30 *international law.*

31 (d) *Demonstrate that the management of the exported covered*
32 *electronic waste will be handled within the country of destination*
33 *in accordance with applicable rules, standards, and requirements*
34 *adopted by the Organization for Economic Co-operation and*
35 *Development for the environmentally sound management of*
36 *electronic waste.*

37 (e) *Demonstrate that the covered electronic waste is being*
38 *exported for the purpose of reuse or recycling.*

39 42477. *On ~~January 1, 2004, and on January~~ July 1, 2004, and*
40 *on July 1 every two years thereafter, the board shall establish an*



1 electronic waste recovery payment schedule for ~~hazardous~~
2 ~~covered~~ electronic wastes generated in this state to cover the net
3 cost for an authorized collector to operate a free and convenient
4 system for collecting, consolidating and transporting ~~hazardous~~
5 ~~electronic wastes generated in this state~~ *covered electronic wastes*
6 *generated in this state. The board shall make the electronic waste*
7 *recovery payments to an authorized collector pursuant to this*
8 *article.*

9 42478. On ~~January 1, 2004, and on January July 1, 2004, and~~
10 ~~on July 1~~ every two years thereafter, the board shall establish ~~an~~
11 ~~a covered~~ electronic waste recycling payment schedule for
12 ~~hazardous covered~~ electronic wastes generated in this state to
13 cover an electronic waste recycler's net cost to receive, process,
14 and recycle a ~~hazardous electronic~~ *covered electronic* device from
15 an authorized collector. *The department shall make the electronic*
16 *waste recycling payments to a covered electronic waste recycler*
17 *pursuant to this article.*

18 42479. ~~(a) The board shall make the following payments to~~
19 ~~an electronic waste recycler, for all hazardous electronic waste~~
20 ~~generated in this state, that is collected and received by the e-waste~~
21 ~~recycler for recycling, upon presentation of a completed e-waste~~
22 ~~recycler invoice in the form adopted by the board:~~

23 (1) ~~The applicable e-waste recovery payment established~~
24 ~~pursuant to Section 42477, which shall be transmitted by the~~
25 ~~e-waste recycler to the authorized collector pursuant to~~
26 ~~subdivision (e).~~

27 (2) ~~The applicable e-waste recycling payment established~~
28 ~~pursuant to Section 42478, which shall be retained by the e-waste~~
29 ~~recycler.~~

30 (b) ~~Notwithstanding subdivision (a), the board may not pay an~~
31 ~~e-waste recycling payment to an e-waste recycler that is a or~~
32 ~~registrant operating a hazardous electronic device recycling~~
33 ~~system established pursuant to Section 42467 for any amount of~~
34 ~~hazardous electronic waste received in a calendar year that is less~~
35 ~~than the amount of hazardous electronic waste specified in the~~
36 ~~recycling targets established pursuant to Section 42466.~~

37 (c) ~~An e-waste recycler shall pay the applicable e-waste~~
38 ~~recovery payment established pursuant to Section 42477 to an~~
39 ~~authorized collector or its designated consolidator, for all~~
40 ~~hazardous electronic waste generated in this state, that is collected~~



1 ~~and received by the e-waste recycler for recycling, upon receipt by~~
2 ~~the e-waste recycler of a shipping report from the authorized~~
3 ~~collector, in the form adopted by the board.~~

4 ~~(d)~~

5 42479. (a) *The board shall make electronic waste recovery*
6 *payments and electronic waste recycling payments for the*
7 *collection and recycling of covered electronic waste to an*
8 *authorized collector or covered electronic waste recycler,*
9 *respectively, upon receipt of a completed and verified invoice*
10 *submitted to the board by the authorized collector or recycler in the*
11 *form and manner determined by the board.*

12 (b) An e-waste recycler is eligible for a payment pursuant to
13 this section only if the e-waste recycler meets all of the following
14 requirements:

15 (1) The e-waste recycler certifies to the board that the e-waste
16 recycler is in compliance with applicable requirements of Article
17 6 (commencing with Section 66273.70) of Chapter 23 of Division
18 4.5 of Title 22 of the California Code of Regulations.

19 (2) The e-waste recycler demonstrates to the board that any
20 facility utilized by the e-waste recycler for the handling,
21 processing, refurbishment, or recycling of ~~hazardous covered~~
22 electronic devices meets all of the following standards:

23 (A) The facility has been inspected by the department or the
24 Certified Unified Program Agency within the past 12 months and
25 had been found to be operating in conformance with all applicable
26 laws, regulations and ordinances.

27 (B) The facility is accessible during normal business hours for
28 unannounced inspections by state or local agencies.

29 (C) The facility ~~submits~~ *has* health and safety, employee
30 training, and environmental compliance plans ~~to the manufacturer~~
31 ~~or registrant~~ and certifies compliance with the plans.

32 (D) The facility meets or exceed the standards specified in
33 Chapter 1 (commencing with Section 1171) of Part 4 of Division
34 2 Division 4 (commencing with Section 3200), and Division 5
35 (commencing with Section 6300), of the Labor Code or, if all or
36 part of the work is to be performed in another state, the equivalent
37 requirements of that state.

38 ~~(3) If the e-waste recycler intends to export hazardous~~
39 ~~electronic waste to a foreign destination, the e-waste shall comply~~



1 ~~with all of the following requirements before exporting the~~
2 ~~hazardous electronic waste to that foreign destination:~~

3 ~~(A) Notify the department of the contents, volume, and~~
4 ~~destination of the proposed export.~~

5 ~~(B) Demonstrate that the hazardous electronic waste will be~~
6 ~~handled in a manner that is at least as protective of public health,~~
7 ~~worker safety, and the environment as the laws, regulations, and~~
8 ~~ordinances applicable to the recycling and disposal of these~~
9 ~~devices in this state.~~

10 ~~(C) Demonstrate that the importation of hazardous electronic~~
11 ~~waste is not prohibited by any applicable law or regulation of the~~
12 ~~country of destination.~~

13 ~~(D) Demonstrate that the hazardous electronic waste is being~~
14 ~~exported for the purposes of reuse or recycling.~~

15

16 Article 7. State Agency Procurement

17

18 42480. (a) A state agency that purchases or leases ~~hazardous~~
19 ~~covered~~ electronic devices shall require each prospective bidder,
20 to certify that it, and its agents, subsidiaries, partners, joint
21 venturers, and subcontractors for the procurement, have complied
22 with this chapter and any regulations adopted by the board
23 pursuant to this chapter, or to demonstrate that this chapter is
24 inapplicable to all lines of business engaged in by the bidder, its
25 agents, subsidiaries, partners, joint venturers, or subcontractors.

26 (b) Failure to provide certification pursuant to this section shall
27 render the prospective bidder and its agents, subsidiaries, partners,
28 joint venturers, and subcontractors ineligible to bid on the
29 procurement of ~~hazardous covered~~ electronic devices.

30 (c) The bid solicitation documents shall specify that the
31 prospective bidder is required to cooperate fully in providing
32 reasonable access to its records and documents that evidence
33 compliance with this chapter.

34 (d) Any person awarded a contract by a state agency that is
35 found to be in violation of this section is subject to the following
36 sanctions:

37 (1) The contract shall be voided by the state agency to which
38 the equipment, materials, or supplies were provided.

39 (2) The contractor is ineligible to bid on any state contract for
40 a period of three years.



1 (3) If the Attorney General establishes in the name of the
2 people of the State of California that any money, property, or
3 benefit was obtained by a contractor as a result of violating this
4 section, the court may, in addition to any other remedy, order the
5 disgorgement of the unlawfully obtained money, property, or
6 benefit in the interest of justice.

7

8 Article 8. Inapplicability of Chapter

9

10 42485. The board shall not implement this chapter if either of
11 the following occur:

12 (a) A federal law, or a combination of federal laws, takes effect
13 and does all of the following:

14 (1) Establishes a program for the collection, recycling, and
15 proper disposal of ~~cathode ray tube devices~~ *covered electronic*
16 *waste* that is applicable to all cathode ray tube devices sold in the
17 United States.

18 (2) Provides revenues to the state to support the collection,
19 recycling, and proper disposal of ~~cathode ray tube devices~~ *covered*
20 *electronic waste*, in an amount that is equal to, or greater than, the
21 revenues that would be generated by the fee imposed under
22 Section 42471.

23 (3) Requires ~~cathode ray tube~~ *covered electronic* device
24 manufacturers, retailers, handlers, processors, and recyclers to
25 dispose of those devices in a manner that is in compliance with all
26 applicable federal, state, and local laws, regulations, and
27 ordinances, and prohibits the devices from being exported for
28 disposal in a manner that poses a significant risk to the public
29 health or the environment.

30 (b) A trial court issues a judgment, which is not appealed, or an
31 appellate court issues an order affirming a judgment of a trial
32 court, holding that out-of-state manufacturers or retailers, or both,
33 may not be required to collect the fee authorized by this chapter.
34 The order shall be stayed until all appeals are concluded. The
35 out-of-state manufacturers or retailers, or both, shall continue to
36 collect the fee during the appellate process.

37 ~~SEC. 5.—~~

38 *SEC. 6.* The provisions of this act are severable. If any
39 provision of this act or its application is held invalid, that invalidity



1 shall not affect other provisions or applications that can be given
2 effect without the invalid provision or application.

3 ~~SEC. 6.~~

4 *SEC. 7.* No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the costs that may be incurred by a local agency or school district
7 will be incurred because this act creates a new crime or infraction,
8 eliminates a crime or infraction, or changes the penalty for a crime
9 or infraction, within the meaning of Section 17556 of the
10 Government Code, or changes the definition of a crime within the
11 meaning of Section 6 of Article XIII B of the California
12 Constitution or because a local agency or school district has the
13 authority to levy service charges, fees, or assessments sufficient to
14 pay for the program or level of service mandated by this act, within
15 the meaning of Section 17556 of the Government Code.

16 _____

17 CORRECTIONS

18 Text — Page 26.

19 _____

20

