

AMENDED IN ASSEMBLY JUNE 7, 2004
AMENDED IN SENATE JANUARY 16, 2004
AMENDED IN SENATE JANUARY 7, 2004

SENATE BILL

No. 50

Introduced by Senator Sher

January 9, 2003

An act to amend Section 25214.10 of, *and to add Sections 25214.10.1 and 25214.10.2 to*, the Health and Safety Code, and to amend Sections 42463, 42464, *42465, 42465.1, 42465.2, 42465.3, 42475, 42475.2, 42476, 42476.5, 42476.6, 42477, and 42478 of, and 42477, 42478, and 42485 of*, to add Section 42464.4 to, to repeal Section 42475.1 of, *and to repeal and add Section 42464.2 of*, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Sher. Solid waste: hazardous electronic waste.

(1) The Electronic Waste Recycling Act of 2003 makes it unlawful to sell, on or after July 1, 2004, a covered electronic device, as defined, in this state to a consumer, as defined, unless the California Integrated Waste Management Board (*board*) or the Department of Toxic Substances Control (*department*) determines that the manufacturer of that device is in compliance with the act. The act requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. The act requires a manufacturer, on or before April 1, 2004, to inform the retailer if a covered electronic device is subject to the waste recycling fee.

~~This bill would revise the act to, among other things, redefine “covered electronic device,” allow the board to reduce or eliminate the covered electronic waste recycling fee under certain conditions, prohibit the payment for covered electronic waste exported out of the state in certain circumstances, and revise provisions for the exportation of covered electronic waste. This bill would require the manufacturer to inform the retailer annually as to whether a waste recycling fee is required~~ *require the department to adopt regulations to identify electronic devices that are video display devices with a screen size of greater than 4 inches that the department has determined are presumed to be, when discarded, a hazardous waste pursuant to the hazardous waste control laws. The bill would require the department to adopt regulations for determining whether an electronic device, when discarded, is not a hazardous waste.*

The bill would require a manufacturer to inform a retailer by August 1, 2004, and by April 1, annually thereafter whether a device is a covered electronic device for purpose of the act and would require a covered electronic device identified in the regulations adopted by July 1, 2004, to be subject to the act on and after November 1, 2004. The bill would specify a procedure for a manufacturer to obtain the determination of the department that an electronic device is not subject to the act. The bill would authorize the department to adopt emergency regulations to implement these requirements.

(2) Existing law, the act, requires a retailer selling a covered electronic device in this state to collect an electronic waste recycling fee from the consumer on and after July 1, 2004, and to transmit the fee to the board in accordance with a schedule and procedures that the board is required to establish. The act requires the board, in collaboration with the department, 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 revise the definitions of the terms “covered electronic waste,” “person,” “retailer,” and “retail sale,” and would define the terms “discarded” and “recycling,” for purposes of the act.

The bill would revise the procedures for reviewing and adjusting the covered electronic waste recycling fee.

The bill would repeal the authorization for the board to collect the fees and would require the board, on or before November 1, 2004, in consultation with the State Board of Equalization, to issue a specified notice and establish a call center for the purposes of responding to any



inquiries or complaints from retailers or from the public concerning payment or collection of the fee.

The bill would require the State Board of Equalization, on and after January 1, 2005, to collect the electronic waste recycling fees from retailers and to deposit those fees in the Electronic Waste Recovering and Recycling Account. The bill would require the covered electronic waste recycling fee to be due and payable quarterly on or before the last day of the month following each calendar quarter.

(3) The act requires each manufacturer of an electronic device who sells a covered electronic device in this state to submit an annual report to the board on the number of electronic devices sold by the manufacturer.

This bill would authorize a manufacturer to report only on those covered electronic devices that are not subject to Directive 2002/95/EC, as specified.

(4) Under existing law, the Electronic Waste Recovery and Recycling Account is created in the Integrated Waste Management Fund and the board and the department are authorized to expend the moneys deposited in the account, upon appropriation by the Legislature, for specified purposes.

This bill would continuously appropriate the money in the Electronic Waste Recovery and Recycling Account, which the bill would create in the State Treasury, to reimburse the State Board of Equalization for its costs associated with registration, collection, overpayment refunds, and auditing retailers, to make electronic waste recovery payments and electronic waste recycling payments, and to provide funding to the department to implement and enforce the hazardous waste control law, with regard to covered electronic devices. The bill would authorize the board and the department to expend the money in the account for the administration of the act only upon appropriation by the Legislature in the annual Budget Act.

The bill would also establish the Electronic Waste Penalty Subaccount in the account, would require all fines or penalties collected pursuant to the act to be deposited in the subaccount, and would authorize the expenditure of the funds in the subaccount only upon appropriation by the Legislature.

(5) Existing law requires the board, in collaboration with the department, to establish 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



covered electronic wastes. Existing law also requires the board to establish an electronic waste recycling payment schedule to cover an e-waste recycler's net cost of receiving, processing, and recycling covered electronic waste.

This bill would allow the board to make electronic waste recycling payments or electronic waste recovery payments only for covered electronic waste that is processed in this state according to a cancellation procedure that the board would be required to adopt. The bill would prohibit the board from providing any recycling payment for covered electronic waste exported out-of- state. The bill would authorize the board to elect to pay an electronic waste recycling payment or electronic waste recovery payment only for covered electronic waste that is recycled within the state, if the board declares that the state is a market participant in the business of the recycling of covered electronic waste, as specified, and the board pays the electronic waste recycling payment or electronic waste recovery payment to a manufacturer who takes back and cancels covered electronic waste from a consumer in this state, as specified.

The bill would authorize the board to make supplemental electronic waste recovery payment to an authorized collector who makes a specified demonstration to the board.

(6) Existing law requires a person who intends to export electronic waste to a foreign destination to comply with specified notification 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.

This bill would instead require a person who intends to export covered electronic waste, or a covered electronic device intended for reuse to a foreign country, or to another state for ultimate export to a foreign country, to comply with specified notification requirements and make specified demonstrations, including, a demonstration with regard to management of the waste in accordance with the decisions and implementing guidelines of the Organization for Economic Co-operation, notwithstanding that the country of destination is not a member of the Organization for Economic Co-operation and Development.

(7) The bill would also make technical changes to the act.



(8) Because the act is incorporated 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.

~~(2)~~

(9) 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 a specified reason.

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

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

1 SECTION 1. Section 25214.10 of the Health and Safety Code
2 is amended to read:

3 25214.10. (a) For purposes of this section, “electronic
4 device” has the same meaning as a “covered electronic device,”
5 ~~as defined in subdivision (g) of Section 42463 of Public Resources~~
6 *as defined in Section 42463 of the Public Resources Code.*

7 (b) The department shall adopt regulations, in accordance with
8 this section, that prohibit an electronic device from being sold or
9 offered for sale in this state if the electronic device is prohibited
10 from being sold or offered for sale in the European Union on and
11 after its date of manufacture, to the extent that Directive
12 2002/95/EC, adopted by the European Parliament and the Council
13 of the European Union on January 27, 2003, *and as amended*
14 *thereafter by the Commission of European Communities*, prohibits
15 that sale due to the presence of certain heavy metals.

16 (c) The regulations adopted pursuant to subdivision (b) shall
17 take effect January 1, 2007, or on or after the date Directive
18 2002/95/EC, adopted by the European Parliament and the Council
19 of the European Union on January 27, 2003, takes effect,
20 whichever date is later.

21 (d) The department shall exclude, from the regulations adopted
22 pursuant to this section, the sale of an electronic device that
23 contains a substance that is used to comply with the consumer,
24 health, or safety requirements that are required by the
25 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 an
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) (1) The department may not adopt any regulations pursuant
8 to this section that impose any requirements or conditions that are
9 in addition to, or more stringent than, the requirements and
10 conditions expressly authorized by this section.

11 (2) *In complying with this subdivision, the department shall*
12 *use, in addition to any other information deemed relevant by the*
13 *department, the published decisions of the Technical Adaptation*
14 *Committee and European Union member states that interpret the*
15 *requirements of Directive 2002/95/EC.*

16 SEC. 2. *Section 25214.10.1 is added to the Health and Safety*
17 *Code to read:*

18 25214.10.1. (a) (1) *For purposes of this section,*
19 *“manufacturer” and “retailer” have the same meaning as defined*
20 *in Section 42463 of the Public Resources Code.*

21 (2) *The department shall adopt regulations that identify*
22 *electronic devices that are video display devices with a screen size*
23 *of greater than four inches and that the department determines are*
24 *presumed to be, when discarded, a hazardous waste pursuant to*
25 *this chapter.*

26 (3) *The department shall adopt regulations for determining*
27 *whether an electric device, when discarded would not be a*
28 *hazardous waste.*

29 (b) *Except as provided in subdivision (d), on or before August*
30 *1, 2004, and on or before every April 1 of each year thereafter, a*
31 *manufacturer, shall inform a retailer that sells an electronic device*
32 *manufactured by that manufacture whether that electronic device*
33 *is listed in subparagraphs (A) to (C), inclusive, of paragraph (1)*
34 *of subdivision (f) of Section 42463 of the Public Resources Code,*
35 *or is identified in the regulations adopted by the department*
36 *pursuant to paragraph (2) of subdivision (a). The manufacturer*
37 *shall inform the retailer that the electronic device is a covered*
38 *electronic device and is subject to a fee in accordance with*
39 *subdivision (c).*



1 (c) (1) Except as provided in subdivision (d), each covered
2 electronic device that is listed in paragraph (1) of subdivision (f)
3 of Section 42463 of the Public Resources Code, or that is identified
4 in the regulations adopted, on or before July 1, 2004, by the
5 department, pursuant to paragraph (2) of subdivision (a), shall, on
6 and after November 1, 2004, be subject to Chapter 8.5
7 (commencing with Section 42460) of Part 3 of Division 30 of the
8 Public Resources Code, including the fee imposed pursuant to
9 Section 42464 of the Public Resources Code.

10 (2) Except as provided in subdivision (d), each covered
11 electronic device identified in the regulations adopted, on or after
12 July 2, 2004, by the department, pursuant to paragraph (2) of
13 subdivision (a), shall, on and after the July 1 of the subsequent year
14 in which the device is first identified in the regulations, be subject
15 to Chapter 8.5 (commencing with Section 42460) of Part 3 of
16 Division 30 of the Public Resources Code, including the fee
17 imposed pursuant to Section 42464 of the Public Resources Code.

18 (d) The manufacturer of an electronic device that is listed in
19 paragraph (1) of subdivision (f) of Section 42463 of the Public
20 Resources Code, or is identified in the regulations adopted by the
21 department pursuant to paragraph (2) of subdivision (a), may
22 apply to the department for a determination that the device is
23 nonhazardous, in accordance with procedures set forth in
24 regulations adopted by the department pursuant to paragraph (3)
25 of subdivision (a). If the department determines that the electronic
26 device is nonhazardous, the electronic device is not subject to
27 Chapter 8.5 (commencing with Section 42460) of Part 3 of
28 Division 30 of the Public Resources Code on the first day of the
29 quarter that begins at least 30 days after the last date of the
30 following required actions have occurred:

31 (1) The date when the department provides a written statement
32 to the manufacturer that the electronic device is nonhazardous.

33 (2) The date when the manufacturer notifies all retailers selling
34 the electronic device of the department's determination.

35 SEC. 3. Section 25214.10.2 is added to the Health and Safety
36 Code, to read:

37 25214.10.2. A regulation adopted pursuant to this article may
38 be adopted as an emergency regulation in accordance with
39 Chapter 3.5 (commencing with Section 11340) of Part 1 of
40 Division 3 of Title 2 of the Government Code, and for the purposes



1 of that chapter, including Section 11349.6 of the Government
2 Code, the adoption of these regulations is an emergency and shall
3 be considered by the Office of Administrative Law as necessary for
4 the immediate preservation of the public peace, health, and safety,
5 and general welfare. Notwithstanding Chapter 3.5 (commencing
6 with Section 11340) of Part 1 of Division 3 of Title 2 of the
7 Government Code. An emergency regulation adopted by the
8 department pursuant to this section shall be filed with, but not be
9 repealed by, the Office of Administrative Law and shall remain in
10 effect for a period of two years or until revised by the department,
11 whichever occurs sooner.

12 SEC. 4. Section 42463 of the Public Resources Code is
13 amended to read:

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 covered electronic
22 devices.

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

27 (3) A nonprofit organization that collects or accepts covered
28 electronic devices.

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

33 (5) An entity that collects, handles, consolidates, and transports
34 covered electronic devices and has filed a notification with the
35 department pursuant to Article 7 (commencing with Section
36 66273.80) of Chapter 23 of Division 4.5 of Title 22 of the
37 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 covered~~
2 ~~electronic device. “Consumer” also includes a business,~~
3 ~~corporation, limited partnership, nonprofit organization, or~~
4 ~~governmental entity, but does not include an entity involved in a~~
5 ~~wholesale transaction between a distributor and retailer.~~ *person*
6 *who purchases a new or refurbished covered electronic device in*
7 *a transaction that is a retail sale.*

8 (2) (A) “Consumer” does not include a manufacturer who
9 purchases specialty or medical electronic equipment that is a
10 covered electronic device.

11 (B) For purposes of this paragraph, “medical electronic
12 equipment” includes, but is not limited to, radiotherapy
13 equipment, cardiology equipment, dialysis equipment, pulmonary
14 ventilators, nuclear medicine equipment, laboratory equipment
15 for in vitro diagnosis, analyzers and freezers.

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

19 (e) “Department” means the Department of Toxic Substances
20 Control.

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

28 ~~(2) “Covered electronic device” does not include an~~
29 ~~automobile or any part of the automobile assembled by or for the~~
30 ~~automobile manufacturer or franchised dealer including~~
31 ~~replacement parts for use in an automobile, or a large piece of~~
32 ~~commercial or industrial equipment, including, but not limited to,~~
33 ~~commercial medical equipment, that contains a cathode ray tube,~~
34 ~~cathode ray tube device, flat panel screen, or other similar video~~
35 ~~display device that is contained within, and is not separate from,~~
36 ~~the larger piece of industrial or commercial equipment.~~

37 (2) *If the manufacturer of an electronic device, obtains the*
38 *determination of the department that the electronic device is*
39 *nonhazardous, in accordance with subdivision (d) of Section*
40 *25214.10.1 of the Health and Safety Code, the electronic device is*



1 *not a covered electronic device for purposes of this chapter on the*
2 *first day the quarter that begins at least 30 days after the last date*
3 *of the required actions specified in paragraphs (1) and (2) of*
4 *subdivision (d) of Section 25214.10.1 of the Health and Safety*
5 *Code.*

6 (3) *“Covered electronic device” does not include any of the*
7 *following:*

8 (A) *A video display device that is a part of a motor vehicle, as*
9 *defined in Section 415 of the Vehicle Code, or any component part*
10 *of a motor vehicle assembled by, or for, a vehicle manufacturer or*
11 *franchised dealer, including replacement parts for use in a motor*
12 *vehicle.*

13 (B) *A video display device that is contained within, or a part of*
14 *a piece of industrial, commercial, or medical equipment, including*
15 *monitoring or control equipment, and that is not separate from that*
16 *equipment.*

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

19 (h) *“Covered electronic waste recycling fee” or “covered*
20 *e-waste recycling fee” means the fee imposed pursuant to Article*
21 *3 (commencing with Section 42464).*

22 (i) *“Covered electronic waste recycler” or “covered e-waste*
23 *recycler” means any of the following:*

24 (1) *A person who engages in the manual or mechanical*
25 *separation of covered electronic devices to recover components*
26 *and commodities contained therein for the purpose of reuse or*
27 *recycling.*

28 (2) *A person who changes the physical or chemical*
29 *composition of a covered electronic device, in accordance with the*
30 *requirements of Chapter 6.5 (commencing with Section 25100) of*
31 *Division 20 of the Health and Safety Code and the regulations*
32 *adopted pursuant to that chapter, by deconstructing, size*
33 *reduction, crushing, cutting, sawing, compacting, shredding, or*
34 *refining for purposes of segregating components, for purposes of*
35 *recovering or recycling those components, and who arranges for*
36 *the transport of those components to an end user.*

37 (3) *A manufacturer who meets any conditions established by*
38 *this chapter and Chapter 6.5 (commencing with Section 25100) of*
39 *Division 20 of the Health and Safety Code for the collection or*
40 *recycling of covered electronic waste.*



1 (j) “Discarded” has the same meaning as defined in
2 subdivision (b) of Section 25124 of the Health and Safety Code.

3 (k) “Electronic waste recovery payment” means an amount
4 established and paid by the board pursuant to Section 42477.

5 ~~(k)~~

6 (l) “Electronic waste recycling payment” means an amount
7 established and paid by the board pursuant to Section 42478.

8 ~~(l)~~

9 (m) “Hazardous material” has the same meaning as defined in
10 Section 25501 of the Health and Safety Code.

11 ~~(m)~~

12 (n) “Manufacturer” means any of the following:

13 (1) A person who manufactures a covered electronic device
14 sold in this state.

15 (2) A person who sells a covered electronic device in this state
16 under a person’s brand name.

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

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

32 ~~(2) For purposes of this subdivision and subdivision (n),
33 “distributor” means a person who sells a covered electronic
34 device to a retailer.~~

35 (o) “Person” means an individual, trust firm, joint stock
36 company, business concern, corporation, including, but not
37 limited to, a government corporation, partnership, limited liability
38 company, and association. Notwithstanding Section 40170,
39 “person” also includes a city, county, city and county, district,
40 commission, the state or a department, agency, or political



1 subdivision thereof, an interstate body, and the United States and
2 its agencies and instrumentalities to the extent permitted by law.

3 (p) “Recycling” has the same meaning as defined in
4 subdivision (a) of Section 25121.1 of the Health and Safety Code.

5 (q) “Retailer” means a person who makes a retail sale of a new
6 or refurbished covered electronic device in the state directly to a
7 consumer through any means, including, but not limited to, a
8 transaction conducted through a sales outlet, catalog, or the
9 Internet or any other similar electronic means. “Retailer” also
10 includes a manufacturer of a covered electronic device who sells
11 that covered electronic device directly to a consumer through any
12 means, including, but not limited to, a transaction conducted
13 through a sales outlet, catalog, or the Internet, or any other similar
14 electronic means.

15 (r) “Retail sale” has the same meaning as defined under
16 Section 6007 of the Revenue and Taxation Code.

17 **SEC. 3.—**

18 **SEC. 5.** Section 42464 of the Public Resources Code is
19 amended to read:

20 42464. (a) Except as specified in subdivision (f), on and after
21 July 1, 2004, a covered electronic waste recycling fee is hereby
22 imposed upon the first sale in the state of a covered electronic
23 device to a consumer by a retailer.

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

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

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

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

35 ~~(c) The electronic waste recycling fee collected pursuant to this
36 section shall be transmitted to the board in accordance with a
37 schedule and procedure that the board shall establish pursuant to
38 Sections 42475 and 42475.2. The covered electronic waste
39 recycling fees shall be deposited in the account pursuant to Section
40 42476.~~



1 ~~(d) A retailer selling a covered electronic device may retain 3~~
2 ~~percent of the covered electronic waste recycling fee as~~
3 ~~reimbursement for any costs associated with the collection of the~~
4 ~~fee.~~

5 ~~(e) On and after July 1, 2005, and at least once every two years~~
6 ~~thereafter, the board, in collaboration with the department, shall~~
7 ~~review, at a public hearing, the covered electronic waste recycling~~
8 ~~fee and shall make any adjustments to the fee to ensure that there~~
9 ~~are sufficient revenues in the account to fund the covered~~
10 ~~electronic waste recycling program established pursuant to this~~
11 ~~chapter. The board shall base any adjustment of the covered~~
12 ~~electronic waste recycling fee on both of the following factors:~~

13 ~~(1) The sufficiency, and any surplus, of revenues in the account~~
14 ~~to fund the collection, consolidation, and recycling of 100 percent~~
15 ~~of the covered electronic waste that is projected to be recycled in~~
16 ~~the state.~~

17 ~~(2) The sufficiency of revenues in the account for the board and~~
18 ~~the department to administer, enforce, and promote the program~~
19 ~~established pursuant to this chapter, plus a prudent reserve not to~~
20 ~~exceed 5 percent of the amount in the account.~~

21 ~~(f) (1) The board may reduce or eliminate the covered~~
22 ~~electronic waste recycling fee on a device if the manufacturer of~~
23 ~~that device demonstrates to the satisfaction of the department that~~
24 ~~the device contains no toxic materials.~~

25 ~~(2) A determination that a device contains no toxic materials~~
26 ~~does not obligate the board to refund electronic waste recycling~~
27 ~~fees collected prior to that determination, and does not relieve a~~
28 ~~retailer from paying an electronic waste recycling fee on a device~~
29 ~~sold prior to that determination.~~

30 ~~SEC. 4.—~~

31 ~~(b) A retailer may retain 3 percent of the covered electronic~~
32 ~~waste recycling fee as reimbursement for all costs associated with~~
33 ~~the collection of the fee and shall transmit the fee payments in~~
34 ~~accordance with Section 42464.4.~~

35 ~~(c) On or before May 1, 2005, and, thereafter, no more~~
36 ~~frequently than annually, and no less frequently than biennially,~~
37 ~~the board, in collaboration with the department, shall review, at a~~
38 ~~public hearing, the covered electronic waste recycling fee and~~
39 ~~shall make adjustments to the fee to ensure that there are sufficient~~
40 ~~revenues in the account to fund the covered electronic waste~~



1 recycling program established pursuant to this chapter.
2 Adjustments to the fee that are made on or before May 1 of the
3 current calendar year shall apply for the 12-month period of July
4 1 of the current calendar year to June 30 of the next succeeding
5 calendar year. The board shall base an adjustment of the covered
6 electronic waste recycling fee on both of the following factors:

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

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

14 (d) (1) The board may reduce or eliminate the covered
15 electronic waste recycling fee on an electronic device if the
16 manufacturer of that electronic device demonstrates to the
17 satisfaction of the department that the device is not hazardous
18 pursuant to subdivision (d) of Section 25214.10.1 of the Health
19 and Safety Code.

20 (2) A determination that a covered electronic device is not
21 hazardous does not require the board to refund the electronic waste
22 recycling fees collected prior to that determination, and does not
23 relieve a retailer from collecting and paying an electronic waste
24 recycling fee on a covered electronic device sold prior to that
25 determination.

26 SEC. 6. Section 42464.2 of the Public Resources Code is
27 repealed.

28 ~~42464.2.— The board may collect the fees imposed pursuant to~~
29 ~~this section pursuant to the Fee Collection Procedures Law (Part~~
30 ~~30 (commencing with Section 55001) of Division 2 of the Revenue~~
31 ~~and Taxation Code). The board may contract with the State Board~~
32 ~~of Equalization or another party for collection of fees due under~~
33 ~~this section.~~

34 SEC. 7. Section 42464.2 is added to the Public Resources
35 Code, to read:

36 42464.2. (a) The covered electronic waste recycling fee
37 imposed pursuant to this chapter shall be collected in the following
38 manner:



1 (1) On or before November 1, 2004, in consultation with the
2 State Board of Equalization, the board shall do all of the
3 following:

4 (A) Issue a notice to each retailer who sells a covered electronic
5 device that describes the retailer's obligations under this chapter
6 to register with, and collect and remit electronic waste recycling
7 fees to, the State Board of Equalization for the purposes of
8 complying with the chapter. The notice shall include all
9 information the State Board of Equalization deems necessary to
10 ensure efficient and enforceable collection of electronic waste
11 recycling fees consistent with this section.

12 (B) Establish a call center for the purposes of responding to any
13 inquiries or complaints from retailers or from the public
14 concerning payment or collection of the electronic waste recycling
15 fee.

16 (2) On and after January 1, 2005, the State Board of
17 Equalization shall collect electronic waste recycling fees from
18 retailers and deposit those fees in the account. The State Board of
19 Equalization may collect the fees pursuant to the Fee Collection
20 Procedures Law (Part 30 (commencing with Section 55001) of
21 Division 2 of the Revenue and Taxation Code, except that for
22 purposes of the Fee Collection Procedures Law, the retailer shall
23 be deemed to be the feepayer, as defined in Section 55004 of the
24 Revenue and Taxation Code.

25 (b) The board and the State Board of Equalization shall share
26 data and expertise to ensure the timely and efficient
27 implementation of this section.

28 SEC. 8. Section 42464.4 is added to the Public Resources
29 Code, to read:

30 42464.4. (a) The covered electronic waste recycling fee shall
31 be due and payable quarterly on or before the last day of the month
32 following each calendar quarter. The payments shall be
33 accompanied by a return in the form as prescribed by the State
34 Board of Equalization or that person authorized to collect,
35 including, but not limited to, electronic media.

36 (b) The State Board of Equalization may require the payment
37 of the fee and the filing of returns for other than quarterly periods.

38 SEC. 9. Section 42465 of the Public Resources Code is
39 amended to read:



1 42465. On and after ~~July~~ November 1, 2004, *or as specified*
2 *otherwise in Section 25214.10.1 of the Health and Safety Code*, it
3 shall be unlawful to sell a covered electronic device to a consumer
4 in this state unless the board or department determines that the
5 manufacturer of that covered electronic device demonstrates
6 compliance with this chapter.

7 *SEC. 10. Section 42465.1 of the Public Resources Code is*
8 *amended to read:*

9 42465.1. On and after January 1, 2005, *or as specified*
10 *otherwise in Section 25214.10.1 of the Health and Safety Code*, a
11 person may not sell or offer for sale in this state a covered
12 electronic device unless the device is labeled with the name of the
13 manufacturer or the manufacturer's brand label, so that it is readily
14 visible.

15 *SEC. 11. Section 42465.2 of the Public Resources Code is*
16 *amended to read:*

17 42465.2. (a) On or before July 1, 2005, *or as specified*
18 *otherwise in Section 25214.10.1 of the Health and Safety Code*,
19 and at least once annually thereafter as determined by the board,
20 each manufacturer of a covered electronic device sold in this state
21 shall do all of the following:

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

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

26 (B) A baseline or set of baselines that show the total estimated
27 amounts of mercury, cadmium, lead, hexavalent chromium,
28 PBDE's *to the extent the department considers those substances to*
29 *be a hazardous material*, and PBB's used in covered electronic
30 devices manufactured by the manufacturer in that year and the
31 reduction in the use of those hazardous materials from the previous
32 year. The department may specify a minimum threshold for
33 specified materials requiring reporting.

34 (C) A baseline or set of baselines that show the total estimated
35 amount of recycled materials contained in covered electronic
36 devices sold by the manufacturer in that year and the increase in
37 the use of those recyclable materials from the previous year.

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



1 (E) A list of Internet and catalog retailers that sold, or offered
2 for sale, the covered electronic devices during the previous year.

3 (2) Make information available to consumers, that describes
4 where and how to return, recycle, and dispose of the covered
5 electronic device and opportunities and locations for the collection
6 or return of the device, through the use of a toll-free telephone
7 number, Internet Web site, information labeled on the device,
8 information included in the packaging, or information
9 accompanying the sale of covered electronic device.

10 (b) For the purposes of complying with paragraph (1) of
11 subdivision (a), a manufacturer may submit a report to the board
12 that includes only covered electronic devices that are not subject
13 to Directive 2002/95/EC adopted by the European Parliament and
14 the Council of the European Union on January 27, 2003, and any
15 amendments made to that directive, if both of the following
16 conditions are met:

17 (1) The manufacturer submits written verification to the
18 department that demonstrates, to the satisfaction of the
19 department, that the manufacturer is in compliance with Directive
20 2002/95/EC, and any amendments to that directive, for those
21 covered electronic devices for which it is not submitting a report
22 to the board pursuant to this subdivision.

23 (2) The department certifies that the manufacturer is in
24 compliance with Directive 2002/95/EC, and any amendments to
25 that directive, for those covered electronic devices for which the
26 manufacturer is not submitting a report to the board pursuant to
27 this subdivision.

28 (c) Any information submitted to the board pursuant to
29 subdivision (a) that is proprietary in nature or a trade secret shall
30 be subject to protection under state laws and regulations governing
31 that information.

32 ~~SEC. 5.—~~

33 SEC. 12. Section 42465.3 of the Public Resources Code is
34 amended to read:

35 42465.3. On or before ~~April 1, 2004, and annually thereafter,~~
36 August 1, 2004, and on or before every April 1 thereafter, a
37 manufacturer shall inform the retailer if a covered electronic
38 device sold by that manufacturer is subject to the covered
39 electronic waste recycling fee established pursuant to this chapter.

40 ~~SEC. 6.—~~



1 *SEC. 13.* Section 42475 of the Public Resources Code is
2 amended to read:

3 42475. (a) The board shall administer *and enforce* this
4 chapter in consultation with the department.

5 (b) The board and the department may adopt regulations
6 pursuant to Chapter 3.5 (commencing with Section 11340) of Part
7 1 of Division 3 of Title 2 of the Government Code that are
8 necessary to implement this chapter, and any other regulations that
9 the board and the department determines are necessary to
10 implement the provisions of this chapter in a manner that is
11 enforceable.

12 (c) The board shall adopt regulations pursuant to Chapter 3.5
13 (commencing with Section 11340) of Part 1 of Division 3 of Title
14 2 of the Government Code that ensure the protection of any
15 proprietary information submitted to the board by a manufacturer
16 of covered electronic devices.

17 (d) The board and the department may prepare, publish, or
18 issue any materials that the board *or department* determines to be
19 necessary for the dissemination of information concerning the
20 activities of the board *or department* under this chapter.

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

25 ~~SEC. 7.—~~

26 *SEC. 14.* Section 42475.1 of the Public Resources Code is
27 repealed.

28 ~~SEC. 8.—~~

29 *SEC. 15.* Section 42475.2 of the Public Resources Code is
30 amended to read:

31 42475.2. (a) The board and the department may adopt
32 regulations to implement *and enforce* this chapter as emergency
33 regulations.

34 (b) The emergency regulations adopted pursuant to this chapter
35 shall be adopted ~~by the board and the department~~ in accordance
36 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
37 Division 3 of Title 2 of the Government Code, and for the purposes
38 of that chapter, including Section 11349.6 of the Government
39 Code, the adoption of these regulations is an emergency and shall
40 be considered by the Office of Administrative Law as necessary



1 for the immediate preservation of the public peace, health, safety,
2 and general welfare. Notwithstanding Chapter 3.5 (commencing
3 with Section 11340) of Part 1 of Division 3 of Title 2 of the
4 Government Code, any emergency regulations adopted by the
5 board ~~and or~~ the department pursuant to this section shall be filed
6 with, but not be repealed by, the Office of Administrative Law and
7 shall remain in effect for a period of two years or until revised by
8 the department or the board, whichever occurs sooner.

9 ~~SEC. 9.—~~

10 *SEC. 16.* Section 42476 of the Public Resources Code is
11 amended to read:

12 ~~42476. (a) The board and the department shall deposit all~~
13 ~~fees or fines collected under this chapter into the Electronic Waste~~
14 ~~Recovery and Recycling Account, which is hereby created in the~~
15 ~~Integrated Waste Management Fund. The funds in the Electronic~~
16 ~~Waste Recovery and Recycling Account may be expended by the~~
17 ~~board and department, upon appropriation by the Legislature, for~~
18 ~~the following purposes:~~

19 ~~(1) To make electronic waste recovery payments to an~~
20 ~~authorized collector of covered electronic waste pursuant to~~
21 ~~Section 42479.~~

22 ~~(2) To make electronic waste recycling payments to covered~~
23 ~~electronic waste recyclers of covered electronic waste pursuant to~~
24 ~~Section 42479.~~

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

27 ~~(4) To provide funding to the department to implement and~~
28 ~~enforce Chapter 6.5 (commencing with Section 25100) of~~
29 ~~Division 20 of the Health and Safety Code, as that chapter relates~~
30 ~~to covered electronic devices, and any regulations adopted by the~~
31 ~~department pursuant to that chapter.~~

32 ~~(b)—~~

33 *42476. (a) The Electronic Waste Recovery and Recycling*
34 *Account is hereby created in the State Treasury. Notwithstanding*
35 *Section 13340 of the Government Code, the funds in the account*
36 *are hereby continuously appropriated without regard to fiscal year,*
37 *for the following purposes:*

38 *(1) To reimburse the State Board of Equalization for its costs*
39 *associated with registration, collection, overpayment refunds, and*



1 auditing retailers in connection with the covered electronic waste
2 recycling fee imposed pursuant to Article 3.

3 (2) To make electronic waste recovery payments to an
4 authorized collector of covered electronic waste pursuant to
5 Section 42479.

6 (3) To make electronic waste recycling payments to covered
7 electronic waste recyclers of covered electronic waste pursuant to
8 Section 42479.

9 (4) To provide funding to the department to implement and
10 enforce Chapter 6.5 (commencing with Section 25100) of Division
11 20 of the Health and Safety Code, as that chapter relates to covered
12 electronic devices, and any regulations adopted by the department
13 pursuant to that chapter.

14 (5) To establish the public information program specified in
15 subdivision (d).

16 (b) (1) The board and the department may expend the money
17 in the account for the administration of this article only upon
18 appropriation by the Legislature in the annual Budget Act.

19 (2) Any fines or penalties collected pursuant to this chapter
20 shall be deposited in the Electronic Waste Penalty Subaccount,
21 which is hereby established in the account. The funds in the
22 Electronic Waste Penalty Subaccount may be expended by the
23 board or department only upon appropriation by the Legislature.

24 (c) Notwithstanding Section 16475 of the Government Code,
25 any interest earned upon funds in the Electronic Waste Recovery
26 and Recycling Account shall be deposited in that account for
27 expenditure pursuant to this chapter.

28 ~~(e)~~

29 (d) Not more than 1 percent of the funds annually deposited in
30 the Electronic Waste Recovery and Recycling Account shall be
31 expended for the purposes of establishing the public information
32 program to educate the public in the hazards of improper covered
33 electronic device storage and disposal and on the opportunities to
34 recycle covered electronic devices.

35 ~~(d) The board may not provide any payment for covered~~
36 ~~electronic devices unless the materials will be handled in~~
37 ~~compliance with all statutes and regulations regarding the export~~
38 ~~of hazardous wastes. No payment may be made for covered~~
39 ~~electronic devices exported to any country where the export or~~
40 ~~import of hazardous waste is prohibited.~~



1 ~~(e) The board may not provide any payment for covered~~
2 ~~electronic waste unless the materials are handled in compliance~~
3 ~~with all statutes and regulations regarding the export of hazardous~~
4 ~~wastes, including, but not limited to, Section 42476.5.~~

5 ~~(f) The board may not provide payment for covered electronic~~
6 ~~waste exported out of state unless it can be demonstrated that the~~
7 ~~materials are destined for reuse or recycling and managed in~~
8 ~~compliance with all statutes and regulations regarding the~~
9 ~~handling and export of hazardous wastes.~~

10 *(e) The board may not make a electronic waste recycling*
11 *payment or electronic waste recovery payment for covered*
12 *electronic waste unless that waste is handled in compliance with*
13 *all statutes and regulations governing the management, including*
14 *the export, of that waste.*

15 *(f) (1) The board shall adopt regulations specifying the*
16 *cancellation methods for the recovery, processing, or recycling of*
17 *covered electronic waste.*

18 *(2) The board may make electronic waste recycling payments*
19 *or electronic waste recovery payments only if the covered*
20 *electronic waste is processed in this state according to the*
21 *cancellation method authorized by the board.*

22 *(3) The board may not pay an electronic waste recycling*
23 *payment for covered electronic waste that is exported out of state.*

24 *(g) The board may elect to pay an electronic waste recycling*
25 *payment or electronic waste recovery payment only for covered*
26 *electronic waste that is recycled within the state, subject to all of*
27 *the following terms and conditions:*

28 *(1) The board declares that the state is a market participant in*
29 *the business of the recycling of covered electronic waste for all of*
30 *the following reasons.*

31 *(A) The fee is collected from the state's consumers for covered*
32 *electronic devices sold for use in the state.*

33 *(B) The purpose of the fee and subsequent payments is to*
34 *prevent damage to the public health and the environment from*
35 *waste generated in the state.*

36 *(C) The recycling system funded by the fee ensures that*
37 *economically viable and sustainable markets are developed and*
38 *supported for recovered materials and components in order to*
39 *conserve resources and maximize business and employment*
40 *opportunities within the state.*



1 (2) *The board pays the electronic waste recycling payment or*
 2 *electronic waste recovery payment to a manufacturer who takes*
 3 *back and cancels covered electronic waste from a consumer in this*
 4 *state, in accordance with the requirements of Section 42479. The*
 5 *amount of the electronic waste recycling payment paid by the*
 6 *board shall equal the value of the covered electronic waste*
 7 *recycling fee for that device. To qualify for payment, the*
 8 *manufacturer shall demonstrate to the board that the covered*
 9 *electronic device for which payment is claimed was used in the*
 10 *state.*

11 ~~SEC. 10.—~~

12 ~~SEC. 17.~~ Section 42476.5 of the Public Resources Code is
 13 amended to read:

14 ~~42476.5.—~~ Except as provided in Section 42476.6, any person
 15 who intends to export covered electronic waste to a foreign
 16 destination shall comply with all of the following at least 60 days
 17 prior to export:

18 ~~(a) Notify the department of the destination, contents, and~~
 19 ~~volume of covered electronic waste to be exported.~~

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

26 ~~(c) Demonstrate that the exportation of covered electronic~~
 27 ~~waste is conducted only in accordance with applicable~~
 28 ~~international law, including any treaty agreed to by either the~~
 29 ~~United States or the country of destination.~~

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

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

38 ~~SEC. 11.—~~ Section 42476.6 of the Public Resources Code is
 39 amended to read:



1 ~~42476.6.— Section 42476.5 does not apply to a demanufactured~~
2 ~~or processed component part of a covered electronic device that is~~
3 ~~exported by an authorized collector or recycler and that is directly~~
4 ~~reused in a new electronic component.~~

5 ~~SEC. 12.—~~

6 *42476.5. A person who intends to export covered electronic*
7 *waste, or a covered electronic device intended for reuse to a*
8 *foreign country, or to another state for ultimate export to a foreign*
9 *country, shall do all of the following at least 60 days prior to*
10 *export:*

11 *(a) Notify the department of the destination, disposition,*
12 *contents, and volume of the waste, or device intended for reuse to*
13 *be exported, and include with the notification the demonstrations*
14 *required pursuant to subdivisions (b) to (e), inclusive.*

15 *(b) Demonstrate that the waste, or device is being exported for*
16 *the purposes of recycling.*

17 *(c) Demonstrate that the importation of the waste or device is*
18 *not prohibited by an applicable law in the state or country of*
19 *destination and that any import will be conducted in accordance*
20 *with all applicable laws. As part of this demonstration, required*
21 *import and operating licenses, permits, or other appropriate*
22 *authorization documents shall be forwarded to the department.*

23 *(d) Demonstrate that the exportation of the waste, or device is*
24 *conducted in accordance with applicable United States or*
25 *applicable international law.*

26 *(e) (1) Demonstrate that the waste or device will be managed*
27 *within the country of destination only at facilities whose*
28 *operations meet or exceed the binding decisions and implementing*
29 *guidelines of the Organization for Economic Co-operation and*
30 *Development for the environmentally sound management of the*
31 *waste or device being exported.*

32 *(2) The demonstration required by this subdivision applies to*
33 *any country of destination, notwithstanding that the country is not*
34 *a member of the Organization for Economic Co-operation and*
35 *Development.*

36 *SEC. 18. Section 42477 of the Public Resources Code is*
37 *amended to read:*

38 *42477. On July 1, 2004, or as specified otherwise in Section*
39 *25214.10.1 of the Health and Safety Code, and on July 1 every two*
40 *years thereafter, the board in collaboration with the department*



1 shall establish an electronic waste recovery payment schedule for
 2 covered electronic wastes generated in this state to cover the
 3 average net cost for an authorized collector to operate a free and
 4 convenient system for collecting, consolidating and transporting
 5 covered electronic wastes generated in this state. The board shall
 6 make the electronic waste recovery payments either directly to an
 7 authorized collector or to a covered electronic waste recycler for
 8 payment to an authorized collector pursuant to this article. *The*
 9 *board may make supplemental electronic waste recovery payments*
 10 *to an authorized collector who demonstrates to the satisfaction of*
 11 *the board that the authorized collector's costs for collection,*
 12 *consolidation, and transportation of covered electronic waste*
 13 *exceed the payment allowed pursuant to this section.*

14 ~~SEC. 13.—~~

15 *SEC. 19.* Section 42478 of the Public Resources Code is
 16 amended to read:

17 42478. On July 1, 2004, *or as specified otherwise in Section*
 18 *25214.10.1 of the Health and Safety Code*, and on July 1 every two
 19 years thereafter, the board, in collaboration with the department,
 20 shall establish a covered electronic waste recycling payment
 21 schedule for covered electronic wastes generated in this state to
 22 cover the average net cost for an electronic waste recycler to
 23 receive, process, and recycle a covered electronic device *received*
 24 from an authorized collector. The board shall make the electronic
 25 waste recycling payments to a covered electronic waste recycler
 26 pursuant to this article.

27 ~~SEC. 12.—~~

28 *SEC. 20.* Section 42485 of the Public Resources Code is
 29 amended to read:

30 42485. The board ~~or~~ *and* the department shall not implement
 31 this chapter if either of the following occur:

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

34 (1) Establishes a program for the collection, recycling, and
 35 proper disposal of covered electronic waste that is applicable to all
 36 ~~cathode-ray tube~~ *covered electronic devices* sold in the United
 37 States.

38 (2) Provides revenues to the state to support the collection,
 39 recycling, and proper disposal of covered electronic waste, in an



1 amount that is equal to, or greater than, the revenues that would be
2 generated by the fee imposed under Section 42464.

3 (3) Requires covered electronic device manufacturers,
4 retailers, handlers, processors, and recyclers to dispose of those
5 devices in a manner that is in compliance with all applicable
6 federal, state, and local laws, ~~regulations, and ordinances~~, and
7 prohibits the devices from being exported for disposal in a manner
8 that poses a significant risk to the public health or the environment.

9 (b) A trial court issues a judgment, which is not appealed, or an
10 appellate court issues an order affirming a judgment of a trial
11 court, holding that out-of-state manufacturers or retailers, or both,
12 may not be required to collect the fee authorized by this chapter.
13 ~~The order shall be stayed until all appeals are concluded.~~ The
14 out-of-state manufacturers or retailers, or both, shall continue to
15 collect the fee during the appellate process.

16 *SEC. 21.* No reimbursement is required by this act pursuant
17 to Section 6 of Article XIII B of the California Constitution
18 because the only costs that may be incurred by a local agency or
19 school district will be incurred because this act creates a new crime
20 or infraction, eliminates a crime or infraction, or changes the
21 penalty for a crime or infraction, within the meaning of Section
22 17556 of the Government Code, or changes the definition of a
23 crime within the meaning of Section 6 of Article XIII B of the
24 California Constitution.

25 _____
26 CORRECTIONS

27 **Title — Lines 7,8,9.**

28 **Digest — Page 5.**

29 _____
30

