

ASSEMBLY BILL

No. 549

Introduced by Assembly Member Carter

February 16, 2011

An act to amend Sections 42463, 42476, and 42479 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 549, as introduced, Carter. Recycling: electronic waste.

Existing law, the Electronic Waste Recycling Act of 2003, requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. These fees are deposited in the Electronic Waste Recovery and Recycling Account, and the Department of Resources Recycling and Recovery (CalRecycle) is continuously appropriated the money in the account to, among other things, make electronic waste recovery payments and recycling payments. CalRecycle is authorized to make these payments only if certain conditions are met. CalRecycle is required to make these payments to an authorized collector or covered electronic waste recycler upon receipt of a completed and verified invoice submitted to CalRecycle in the form and manner determined by CalRecycle.

This bill would additionally require, as a condition of making these payments, that the covered electronic device for which the payment is claimed was used in this state. The bill would authorize CalRecycle to review any documentation required to be submitted by an authorized collector or covered electronic waste recycler before making these payments, and to refuse to make these payments, if CalRecycle determines that the documentation is incomplete or not in compliance

with the act or the regulations adopted pursuant to the act. The bill would also make conforming changes with reference to CalRecycle.

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

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

1 SECTION 1. Section 42463 of the Public Resources Code is
2 amended to read:

3 42463. For the purposes of this chapter, the following terms
4 have the following meanings, unless the context clearly requires
5 otherwise:

6 (a) “Account” means the Electronic Waste Recovery and
7 Recycling Account created in the Integrated Waste Management
8 Fund under Section 42476.

9 (b) “Authorized collector” means any of the following:

10 (1) A city, county, or district that collects covered electronic
11 devices.

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

16 (3) A nonprofit organization that collects or accepts covered
17 electronic devices.

18 (4) A manufacturer or agent of the manufacturer that collects,
19 consolidates, and transports covered electronic devices for
20 recycling from consumers, businesses, institutions, and other
21 generators.

22 (5) An entity that collects, handles, consolidates, and transports
23 covered electronic devices and has filed applicable notifications
24 with the department pursuant to Chapter 23 (commencing with
25 Section 66273.1) of Division 4.5 of Title 22 of the California Code
26 of Regulations.

27 (c) “CalRecycle” means the Department of Resources Recycling
28 and Recovery.

29 (e)

30 (d) “Consumer” means a person who purchases a new or
31 refurbished covered electronic device in a transaction that is a
32 retail sale or in a transaction to which a use tax applies pursuant

1 to Part 1 (commencing with Section 6001) of Division 2 of the
2 Revenue and Taxation Code.

3 ~~(d) “Department”~~

4 (e) *Notwithstanding Section 40118, “department”* means the
5 Department of Toxic Substances Control.

6 ~~(e)~~

7 (f) (1) Except as provided in paragraph (2), “covered electronic
8 device” means a video display device containing a screen greater
9 than four inches, measured diagonally, that is identified in the
10 regulations adopted by the department pursuant to subdivision (b)
11 of Section 25214.10.1 of the Health and Safety Code.

12 (2) “Covered electronic device” does not include any of the
13 following:

14 (A) A video display device that is a part of a motor vehicle, as
15 defined in Section 415 of the Vehicle Code, or any component
16 part of a motor vehicle assembled by, or for, a vehicle manufacturer
17 or franchised dealer, including replacement parts for use in a motor
18 vehicle.

19 (B) A video display device that is contained within, or a part of
20 a piece of industrial, commercial, or medical equipment, including
21 monitoring or control equipment.

22 (C) A video display device that is contained within a clothes
23 washer, clothes dryer, refrigerator, refrigerator and freezer,
24 microwave oven, conventional oven or range, dishwasher, room
25 air-conditioner, dehumidifier, or air purifier.

26 (D) An electronic device, on and after the date that it ceases to
27 be a covered electronic device under subdivision (e) of Section
28 25214.10.1 of the Health and Safety Code.

29 ~~(f)~~

30 (g) “Covered electronic waste” or “covered e-waste” means a
31 covered electronic device that is discarded.

32 ~~(g)~~

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

36 ~~(h)~~

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

39 (1) A person who engages in the manual or mechanical
40 separation of covered electronic devices to recover components

1 and commodities contained therein for the purpose of reuse or
 2 recycling.

3 (2) A person who changes the physical or chemical composition
 4 of a covered electronic device, in accordance with the requirements
 5 of Chapter 6.5 (commencing with Section 25100) of Division 20
 6 of the Health and Safety Code and the regulations adopted pursuant
 7 to that chapter, by deconstructing, size reduction, crushing, cutting,
 8 sawing, compacting, shredding, or refining for purposes of
 9 segregating components, for purposes of recovering or recycling
 10 those components, and who arranges for the transport of those
 11 components to an end user.

12 (3) A manufacturer who meets any conditions established by
 13 this chapter and Chapter 6.5 (commencing with Section 25100)
 14 of Division 20 of the Health and Safety Code for the collection or
 15 recycling of covered electronic waste.

16 ~~(i)~~

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

19 ~~(j)~~

20 (k) “Electronic waste recovery payment” means an amount
 21 established and paid by ~~the board~~ CalRecycle pursuant to Section
 22 42477.

23 ~~(k)~~

24 (l) “Electronic waste recycling payment” means an amount
 25 established and paid by ~~the board~~ CalRecycle pursuant to Section
 26 42478.

27 ~~(l)~~

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

30 ~~(m)~~

31 (n) “Manufacturer” means either of the following:

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

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

36 ~~(n)~~

37 (o) “Person” means an individual, trust firm, joint stock
 38 company, business concern, and corporation, including, but not
 39 limited to, a government corporation, partnership, limited liability
 40 company, and association. Notwithstanding Section 40170,

1 “person” also includes a city, county, city and county, district,
2 commission, the state or a department, agency, or political
3 subdivision thereof, an interstate body, and the United States and
4 its agencies and instrumentalities to the extent permitted by law.

5 ~~(o)~~

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

8 ~~(p)~~

9 (q) “Refurbished,” when used to describe a covered electronic
10 device, means a device that the manufacturer has tested and
11 returned to a condition that meets factory specifications for the
12 device, has repackaged, and has labeled as refurbished.

13 ~~(q)~~

14 (r) “Retailer” means a person who makes a retail sale of a new
15 or refurbished covered electronic device. “Retailer” includes a
16 manufacturer of a covered electronic device who sells that covered
17 electronic device directly to a consumer through any means,
18 including, but not limited to, a transaction conducted through a
19 sales outlet, catalog, or the Internet, or any other similar electronic
20 means.

21 ~~(r)~~

22 (s) (1) “Retail sale” has the same meaning as defined under
23 Section 6007 of the Revenue and Taxation Code.

24 (2) “Retail sale” does not include the sale of a covered electronic
25 device that is temporarily stored or used in California for the sole
26 purpose of preparing the covered electronic device for use
27 thereafter solely outside the state, and that is subsequently
28 transported outside the state and thereafter used solely outside the
29 state.

30 ~~(s)~~

31 (t) “Vendor” means a person that makes a sale of a covered
32 electronic device for the purpose of resale to a retailer who is the
33 lessor of the covered electronic device to a consumer under a lease
34 that is a continuing sale and purchase pursuant to Part 1
35 (commencing with Section 6001) of Division 2 of the Revenue
36 and Taxation Code.

37 ~~(t)~~

38 (u) “Video display device” means an electronic device with an
39 output surface that displays, or is capable of displaying, moving
40 graphical images or a visual representation of image sequences or

1 pictures, showing a number of quickly changing images on a screen
 2 in fast succession to create the illusion of motion, including, if
 3 applicable, a device that is an integral part of the display, in that
 4 it cannot be easily removed from the display by the consumer, that
 5 produces the moving image on the screen. A video display device
 6 may use, but is not limited to, a cathode ray tube (CRT), liquid
 7 crystal display (LCD), gas plasma, digital light processing, or other
 8 image projection technology.

9 SEC. 2. Section 42476 of the Public Resources Code is
 10 amended to read:

11 42476. (a) The Electronic Waste and Recovery and Recycling
 12 Account is hereby established in the Integrated Waste Management
 13 Fund. All fees collected pursuant to this chapter shall be deposited
 14 in the account. Notwithstanding Section 13340 of the Government
 15 Code, the funds in the account are hereby continuously
 16 appropriated, without regard to fiscal year, for the following
 17 purposes:

18 (1) To pay refunds of the covered electronic waste recycling
 19 fee imposed under Section 42464.

20 (2) To make electronic waste recovery payments to an
 21 authorized collector of covered electronic waste pursuant to Section
 22 42479.

23 (3) To make electronic waste recycling payments to covered
 24 electronic waste recyclers pursuant to Section 42479.

25 (4) To make payments to manufacturers pursuant to subdivision
 26 (g).

27 (b) (1) The money in the account may be expended for the
 28 following purposes only upon appropriation by the Legislature in
 29 the annual Budget Act:

30 (A) For the administration of this chapter by ~~the board~~
 31 *CalRecycle* and the department.

32 (B) To reimburse the State Board of Equalization for its
 33 administrative costs of registering, collecting, making refunds, and
 34 auditing retailers and consumers in connection with the covered
 35 electronic waste recycling fee imposed under Section 42464.

36 (C) To provide funding to the department to implement and
 37 enforce Chapter 6.5 (commencing with Section 25100) of Division
 38 20 of the Health and Safety Code, as that chapter relates to covered
 39 electronic devices, and any regulations adopted by the department
 40 pursuant to that chapter.

1 (D) To establish the public information program specified in
2 subdivision (d).

3 (2) Any fines or penalties collected pursuant to this chapter shall
4 be deposited in the Electronic Waste Penalty Subaccount, which
5 is hereby established in the account. The funds in the Electronic
6 Waste Penalty Subaccount may be expended by ~~the board~~
7 *CalRecycle* or *the* department only upon appropriation by the
8 Legislature.

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

13 (d) Not more than 1 percent of the funds annually deposited in
14 the Electronic Waste Recovery and Recycling Account shall be
15 expended for the purposes of establishing the public information
16 program to educate the public in the hazards of improper covered
17 electronic device storage and disposal and on the opportunities to
18 recycle covered electronic devices.

19 (e) ~~The board~~ *CalRecycle* shall adopt regulations specifying
20 cancellation methods for the recovery, processing, or recycling of
21 covered electronic waste.

22 (f) ~~The board~~ *CalRecycle* may pay an electronic waste recycling
23 payment or electronic waste recovery payment for covered
24 electronic waste only if all of the following conditions are met:

25 (1) The covered electronic waste, including any residuals from
26 the processing of the waste, is handled in compliance with all
27 applicable statutes and regulations.

28 (2) The manufacturer or the authorized collector or recycler of
29 the electronic waste provide a cost free and convenient opportunity
30 to recycle electronic waste, in accordance with the legislative intent
31 specified in subdivision (b) of Section 42461.

32 (3) If the covered electronic waste is processed, the covered
33 electronic waste is processed in this state according to the
34 cancellation method authorized by ~~the board~~ *CalRecycle*.

35 (4) *The covered electronic device for which the payment is*
36 *claimed was used in this state.*

37 (4)

38 (g) ~~The board~~ *CalRecycle* declares that the state is a market
39 participant in the business of the recycling of covered electronic
40 waste for all of the following reasons:

1 (A)
2 (1) The fee is collected from the state’s consumers for covered
3 electronic devices sold for use in the state.

4 (B)
5 (2) The purpose of the fee and subsequent payments is to prevent
6 damage to the public health and the environment from waste
7 generated in the state.

8 (C)
9 (3) The recycling system funded by the fee ensures that
10 economically viable and sustainable markets are developed and
11 supported for recovered materials and components in order to
12 conserve resources and maximize business and employment
13 opportunities within the state.

14 (g)
15 (h) (1) ~~The board~~ *CalRecycle* may make a payment to a
16 manufacturer that takes back a covered electronic device from a
17 consumer in this state for purposes of recycling the device at a
18 processing facility. The amount of the payment made by ~~the board~~
19 *CalRecycle* shall equal the value of the covered electronic waste
20 recycling fee paid for that device. To qualify for a payment
21 pursuant to this subdivision, the manufacturer shall demonstrate
22 both of the following to ~~the board~~ *CalRecycle*:

23 (A) The covered electronic device for which payment is claimed
24 was used in this state.

25 (B) The covered electronic waste for which a payment is
26 claimed, including any residuals from the processing of the waste,
27 has been, and will be, handled in compliance with all applicable
28 statutes and regulations.

29 (2) A covered electronic device for which a payment is made
30 under this subdivision is not eligible for an electronic waste
31 recovery payment or an electronic waste recycling payment under
32 Section 42479.

33 SEC. 3. Section 42479 of the Public Resources Code is
34 amended to read:

35 42479. (a) (1) (A) For covered electronic waste collected for
36 recycling on and after January 1, 2005, ~~the board~~ *CalRecycle* shall
37 make electronic waste recovery payments and electronic waste
38 recycling payments for the collection and recycling of covered
39 electronic waste to an authorized collector or covered electronic
40 waste recycler, respectively, upon receipt of a completed and

1 verified invoice submitted to ~~the board~~ *CalRecycle* by the
2 authorized collector or recycler in the form and manner determined
3 by ~~the board~~ *CalRecycle*.

4 (B) *CalRecycle* may review any documentation required to be
5 submitted by an authorized collector or covered electronic waste
6 recycler before making a payment authorized by this chapter.
7 *CalRecycle* may refuse to make a payment pursuant to this chapter
8 if it determines the documentation submitted by an authorized
9 collector or covered electronic waste recycler is incomplete or
10 otherwise not in compliance with this chapter or the regulations
11 adopted pursuant to this chapter.

12 (2) To the extent authorized pursuant to Section 42477, a
13 covered electronic waste recycler shall make the electronic waste
14 recovery payments to an authorized collector upon receipt of a
15 completed and verified invoice submitted to the recycler by the
16 authorized collector in the form and manner determined by ~~the~~
17 ~~board~~ *CalRecycle*.

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

21 (1) The e-waste recycler is in compliance with applicable
22 requirements of Article 6 (commencing with Section 66273.70)
23 of Chapter 23 of Division 4.5 of Title 22 of the California Code
24 of Regulations.

25 (2) The e-waste recycler demonstrates to ~~the board~~ *CalRecycle*
26 that any facility utilized by the e-waste recycler for the handling,
27 processing, refurbishment, or recycling of covered electronic
28 devices meets all of the following standards:

29 (A) The facility has been inspected by the department within
30 the past 12 months and had been found to be operating in
31 conformance with all applicable laws, regulations, and ordinances.

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

34 (C) The facility has health and safety, employee training, and
35 environmental compliance plans and certifies compliance with the
36 plans.

37 (D) The facility meets or exceed the standards specified in
38 Chapter 1 (commencing with Section 1171) of Part 4 of Division
39 2, Division 4 (commencing with Section 3200), and Division 5
40 (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.

O