

AMENDED IN ASSEMBLY APRIL 23, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1022

Introduced by Assembly Member Eggman
(Coauthors: Assembly Members Chesbro and Skinner)

February 22, 2013

An act to amend Sections 42463 and 42476 of, and to add and repeal Section 42479.5 of, the Public Resources Code, relating to recycling and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1022, as amended, Eggman. Electronic waste: CRT glass market development payments.

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.

This bill would require the department, *in consultation with the Department of Toxic Substances Control*, to make CRT glass, as defined, market development payments to a *CRT glass processor*, a *CRT glass manufacturer*, or an electronic waste recycler who *processes for use or uses CRT glass to manufacture a product in this state*, pursuant to a specified claims procedure. The bill would repeal ~~on a unspecified date~~ the requirement to make these payments *on January 1, 2023*. The bill would additionally authorize the expenditure of not more than

\$10,000,000 each year of the continuously appropriated funds for the purpose of making those market development payments, until ~~that unspecified date~~ January 1, 2023.

Vote: majority. Appropriation: yes. 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) “Consumer” means a person who purchases a new or
- 28 refurbished covered electronic device in a transaction that is a
- 29 retail sale or in a transaction to which a use tax applies pursuant
- 30 to Part 1 (commencing with Section 6001) of Division 2 of the
- 31 Revenue and Taxation Code.

1 (d) “CRT glass” means glass released or derived from the
2 treatment or breakage of a cathode ray tube that is from or part of
3 a covered electronic device.

4 (e) “*CRT glass manufacturer*” means a person who produces
5 or manufactures a product containing recycled CRT glass in the
6 state.

7 (f) “*CRT glass processor*” means a person who processes CRT
8 glass in a manner that separates the hazardous components from
9 the glass in a manner that allows the nonhazardous glass to be
10 recycled.

11 ~~(e)~~

12 (g) Notwithstanding Section 40118, “department” means the
13 Department of Toxic Substances Control.

14 ~~(f)~~

15 (h) (1) Except as provided in paragraph (2), “covered electronic
16 device” means a video display device containing a screen greater
17 than four inches, measured diagonally, that is identified in the
18 regulations adopted by the department pursuant to subdivision (b)
19 of Section 25214.10.1 of the Health and Safety Code.

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

22 (A) A video display device that is a part of a motor vehicle, as
23 defined in Section 415 of the Vehicle Code, or any component
24 part of a motor vehicle assembled by, or for, a vehicle manufacturer
25 or franchised dealer, including replacement parts for use in a motor
26 vehicle.

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

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

34 (D) An electronic device, on and after the date that it ceases to
35 be a covered electronic device under subdivision (e) of Section
36 25214.10.1 of the Health and Safety Code.

37 ~~(g)~~

38 (i) “Covered electronic waste” or “covered e-waste” means a
39 covered electronic device that is discarded.

40 ~~(h)~~

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

4 ~~(i)~~

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

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

11 (2) A person who changes the physical or chemical composition
12 of a covered electronic device, in accordance with the requirements
13 of Chapter 6.5 (commencing with Section 25100) of Division 20
14 of the Health and Safety Code and the regulations adopted pursuant
15 to that chapter, by deconstructing, size reduction, crushing, cutting,
16 sawing, compacting, shredding, or refining for purposes of
17 segregating components, for purposes of recovering or recycling
18 those components, and who arranges for the transport of those
19 components to an end user.

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

24 ~~(j)~~

25 (l) “Discarded” has the same meaning as defined in subdivision
26 (b) of Section 25124 of the Health and Safety Code.

27 ~~(k)~~

28 (m) “Electronic waste recovery payment” means an amount
29 established and paid by the Department of Resources Recycling
30 and Recovery pursuant to Section 42477.

31 ~~(l)~~

32 (n) “Electronic waste recycling payment” means an amount
33 established and paid by the Department of Resources Recycling
34 and Recovery pursuant to Section 42478.

35 ~~(m)~~

36 (o) “Hazardous material” has the same meaning as defined in
37 Section 25501 of the Health and Safety Code.

38 ~~(n)~~

39 (p) “Manufacturer” means either of the following:

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

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

5 ~~(o)~~

6 (q) “Person” means an individual, trust firm, joint stock
7 company, business concern, and corporation, including, but not
8 limited to, a government corporation, partnership, limited liability
9 company, and association. Notwithstanding Section 40170,
10 “person” also includes a city, county, city and county, district,
11 commission, the state or a department, agency, or political
12 subdivision thereof, an interstate body, and the United States and
13 its agencies and instrumentalities to the extent permitted by law.

14 ~~(p)~~

15 (r) “Recycling” has the same meaning as defined in subdivision
16 (a) of Section 25121.1 of the Health and Safety Code.

17 ~~(q)~~

18 (s) “Refurbished,” when used to describe a covered electronic
19 device, means a device that the manufacturer has tested and
20 returned to a condition that meets factory specifications for the
21 device, has repackaged, and has labeled as refurbished.

22 ~~(r)~~

23 (t) “Retailer” means a person who makes a retail sale of a new
24 or refurbished covered electronic device. “Retailer” includes a
25 manufacturer of a covered electronic device who sells that covered
26 electronic device directly to a consumer through any means,
27 including, but not limited to, a transaction conducted through a
28 sales outlet, catalog, or the Internet, or any other similar electronic
29 means.

30 ~~(s)~~

31 (u) (1) “Retail sale” has the same meaning as defined under
32 Section 6007 of the Revenue and Taxation Code.

33 (2) “Retail sale” does not include the sale of a covered electronic
34 device that is temporarily stored or used in California for the sole
35 purpose of preparing the covered electronic device for use
36 thereafter solely outside the state, and that is subsequently
37 transported outside the state and thereafter used solely outside the
38 state.

39 ~~(t)~~

1 (v) “Vendor” means a person that makes a sale of a covered
 2 electronic device for the purpose of resale to a retailer who is the
 3 lessor of the covered electronic device to a consumer under a lease
 4 that is a continuing sale and purchase pursuant to Part 1
 5 (commencing with Section 6001) of Division 2 of the Revenue
 6 and Taxation Code.

7 ~~(t)~~

8 (w) “Video display device” means an electronic device with an
 9 output surface that displays, or is capable of displaying, moving
 10 graphical images or a visual representation of image sequences or
 11 pictures, showing a number of quickly changing images on a screen
 12 in fast succession to create the illusion of motion, including, if
 13 applicable, a device that is an integral part of the display, in that
 14 it cannot be easily removed from the display by the consumer, that
 15 produces the moving image on the screen. A video display device
 16 may use, but is not limited to, a cathode ray tube (CRT), liquid
 17 crystal display (LCD), gas plasma, digital light processing, or other
 18 image projection technology.

19 SEC. 2. Section 42476 of the Public Resources Code is
 20 amended to read:

21 42476. (a) The Electronic Waste Recovery and Recycling
 22 Account is hereby established in the Integrated Waste Management
 23 Fund. All fees collected pursuant to this chapter shall be deposited
 24 in the account. Notwithstanding Section 13340 of the Government
 25 Code, the funds in the account are hereby continuously
 26 appropriated, without regard to fiscal year, for the following
 27 purposes:

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

30 (2) To make electronic waste recovery payments to an
 31 authorized collector of covered electronic waste pursuant to Section
 32 42479.

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

35 (4) To make payments to manufacturers pursuant to subdivision
 36 (h).

37 (5) To make market development payments for CRT glass
 38 pursuant to Section 42479.5, in an amount of no more than ten
 39 million dollars (\$10,000,000) each year, until January 1, _____
 40 2023.

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

4 (A) For the administration of this chapter by the Department of
5 Resources Recycling and Recovery and the department.

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

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

15 (D) To establish the public information program specified in
16 subdivision (d).

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

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

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

33 (e) The Department of Resources Recycling and Recovery shall
34 adopt regulations specifying cancellation methods for the recovery,
35 processing, or recycling of covered electronic waste.

36 (f) The Department of Resources Recycling and Recovery may
37 pay an electronic waste recycling payment or electronic waste
38 recovery payment only for covered electronic waste that meets all
39 of the following conditions:

1 (1) (A) The covered electronic waste is demonstrated to have
2 been generated by a person who used the covered electronic device
3 while located in this state.

4 (B) Covered electronic waste generated outside of the state and
5 subsequently brought into the state is not eligible for payment.

6 (C) The Department of Resources Recycling and Recovery shall
7 establish documentation requirements for purposes of this
8 paragraph that are necessary to demonstrate that the covered
9 electronic waste was generated in the state and eligible for payment.

10 (2) The covered electronic waste, including any residuals from
11 the processing of the waste, is handled in compliance with all
12 applicable statutes and regulations.

13 (3) The manufacturer or the authorized collector or recycler of
14 the electronic waste provides a cost-free and convenient
15 opportunity to recycle electronic waste, in accordance with the
16 legislative intent specified in subdivision (b) of Section 42461.

17 (4) If the covered electronic waste is processed, the covered
18 electronic waste is processed in this state according to the
19 cancellation method authorized by the Department of Resources
20 Recycling and Recovery.

21 (g) The Legislature hereby declares that the state is a market
22 participant in the business of the recycling of covered electronic
23 waste for all of the following reasons:

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

26 (2) The purpose of the fee and subsequent payments is to prevent
27 damage to the public health and the environment from waste
28 generated in the state.

29 (3) The recycling system funded by the fee ensures that
30 economically viable and sustainable markets are developed and
31 supported for recovered materials and components in order to
32 conserve resources and maximize business and employment
33 opportunities within the state.

34 (h) (1) The Department of Resources Recycling and Recovery
35 may make a payment to a manufacturer that takes back a covered
36 electronic device from a consumer in this state for purposes of
37 recycling the device at a processing facility. The amount of the
38 payment made by the Department of Resources Recycling and
39 Recovery shall equal the value of the covered electronic waste
40 recycling fee paid for that device. To qualify for a payment

1 pursuant to this subdivision, the manufacturer shall demonstrate
2 both of the following to the Department of Resources Recycling
3 and Recovery:

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

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

10 (2) A covered electronic device for which a payment is made
11 under this subdivision is not eligible for an electronic waste
12 recovery payment or an electronic waste recycling payment under
13 Section 42479.

14 SEC. 3. Section 42479.5 is added to the Public Resources Code,
15 to read:

16 42479.5. (a) The *Department of Resources Recycling and*
17 *Recovery, in consultation with the department, shall make CRT*
18 *glass market development payments to a CRT glass processor, a*
19 *CRT glass manufacturer, or an electronic waste recycler who*
20 *processes for use or uses CRT glass to manufacture a product in*
21 *this state.*

22 (b) (1) The *CRT glass processor, CRT glass manufacturer, or*
23 *electronic waste recycler that seeks a market development payment*
24 *shall submit a CRT glass development payment claim to the*
25 ~~department~~ *Department of Resources Recycling and Recovery* for
26 each calendar quarter in which the payment is being claimed, in
27 the form and manner that the ~~department~~ *Department of Resources*
28 *Recycling and Recovery* may prescribe.

29 (2) The ~~department~~ *Department of Resources Recycling and*
30 *Recovery* may make a CRT glass market development payment
31 to a *CRT glass processor, CRT glass manufacturer, or electronic*
32 *waste recycler only if the ~~department~~ Department of Resources*
33 *Recycling and Recovery* determines both of the following:

34 (A) The *CRT glass processor, CRT glass manufacturer, or*
35 *electronic waste recycler demonstrates to the ~~department~~*
36 *Department of Resources Recycling and Recovery* that it is in
37 compliance with all applicable laws.

38 (B) The ~~electronic waste recycler or a manufacturer will utilize~~
39 *CRT glass processor, CRT glass manufacturer, or electronic waste*

1 *recycler will process the CRT glass for use or use* the CRT glass
2 to manufacture a product in this state.
3 (c) This section shall remain in effect only until January 1,
4 _____ 2023 , and as of that date is repealed, unless a later enacted
5 statute, that is enacted before January 1, _____ 2023, deletes or
6 extends that date.

O