

ASSEMBLY BILL

No. 583

Introduced by Assembly Member Knight

February 16, 2011

An act to amend Section 25214.9 of the Health and Safety Code, and to amend Sections 42463, 42464, 42465, 42465.2, 42474, 42475, 42475.2, 42475.3, 42475.4, 42476, 42476.5, 42477, 42478, 42479, and 42485 of, and to repeal Section 42474.5 of, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 583, as introduced, Knight. Electronic waste: administration.

Under existing law, the Electronic Waste Recycling Act of 2003 requires a retailer selling a covered electronic device in this state to collect an electronic waste recycling fee and to transmit the fee to the Department of Resources Recycling and Recovery (CalRecycle). Existing law provides for the administration of the act by both CalRecycle and the Department of Toxic Substances Control (DTSC) and imposes specified duties upon the DTSC with regard to providing notice of exports and the inspection of e-waste recycling facilities. Existing law requires CalRecycle and the DTSC to deposit the fees and fines collected under the act in the Electronic Waste Recovery and Recycling Account and authorizes CalRecycle and the DTSC to expend the moneys deposited in the account, upon appropriation by the Legislature, to administer the act and other provisions regulating covered electronic devices. Existing law incorporates the provisions of the act into the hazardous waste control laws.

The hazardous waste control laws require the DTSC to adopt regulations for identifying covered electronic devices that are hazardous waste when discarded.

This bill would transfer the duties, powers, and authority of the DTSC under the act to CalRecycle and would require the employees of the DTSC who are serving in the state civil service for purposes of carrying out the duties, powers, purposes, and responsibilities of the DTSC under the act to be transferred to CalRecycle, except with regard to the identification of those devices that are hazardous waste. The bill would delete the provision authorizing the enforcement of the act under the hazardous waste control laws and would make conforming changes with regard to the transfer of this authority.

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 25214.9 of the Health and Safety Code
- 2 is amended to read:
- 3 25214.9. ~~(a) The requirements and other provisions of Chapter~~
- 4 ~~8.5 (commencing with Section 42460) of Part 3 of Division 30 of~~
- 5 ~~the Public Resources Code are incorporated by reference as~~
- 6 ~~requirements and provisions of this chapter.~~
- 7 ~~(b)~~ To the extent consistent with the federal act, the department
- 8 may, by regulation, establish management standards as an
- 9 alternative to one or more of the standards in this chapter, for any
- 10 specified activity that involves the management of an electronic
- 11 waste.
- 12 SEC. 2. 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.

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

5 (3) A nonprofit organization that collects or accepts covered
6 electronic devices.

7 (4) A manufacturer or agent of the manufacturer that collects,
8 consolidates, and transports covered electronic devices for
9 recycling from consumers, businesses, institutions, and other
10 generators.

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

16 (c) “CalRecycle” means the Department of Resources Recycling
17 and Recovery.

18 (e)

19 (d) “Consumer” means a person who purchases a new or
20 refurbished covered electronic device in a transaction that is a
21 retail sale or in a transaction to which a use tax applies pursuant
22 to Part 1 (commencing with Section 6001) of Division 2 of the
23 Revenue and Taxation Code.

24 (d)

25 (e) “Department” means the Department of Toxic Substances
26 Control.

27 (e)

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

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

35 (A) A video display device that is a part of a motor vehicle, as
36 defined in Section 415 of the Vehicle Code, or any component
37 part of a motor vehicle assembled by, or for, a vehicle manufacturer
38 or franchised dealer, including replacement parts for use in a motor
39 vehicle.

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

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

8 (D) An electronic device, on and after the date that it ceases to
9 be a covered electronic device under subdivision (e) of Section
10 25214.10.1 of the Health and Safety Code.

11 (f)

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

14 (g)

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

18 (h)

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

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

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

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

38 (i)

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

~~(j)~~

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

~~(k)~~

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

~~(h)~~

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

~~(m)~~

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

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

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

~~(n)~~

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

~~(o)~~

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

~~(p)~~

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

~~(q)~~

~~(r)~~ “Retailer” means a person who makes a retail sale of a new or refurbished covered electronic device. “Retailer” includes a manufacturer of a covered electronic device who sells that covered electronic device directly to a consumer through any means, including, but not limited to, a transaction conducted through a

1 sales outlet, catalog, or the Internet, or any other similar electronic
2 means.

3 ~~(r)~~

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

6 (2) “Retail sale” does not include the sale of a covered electronic
7 device that is temporarily stored or used in California for the sole
8 purpose of preparing the covered electronic device for use
9 thereafter solely outside the state, and that is subsequently
10 transported outside the state and thereafter used solely outside the
11 state.

12 ~~(s)~~

13 (t) “Vendor” means a person that makes a sale of a covered
14 electronic device for the purpose of resale to a retailer who is the
15 lessor of the covered electronic device to a consumer under a lease
16 that is a continuing sale and purchase pursuant to Part 1
17 (commencing with Section 6001) of Division 2 of the Revenue
18 and Taxation Code.

19 ~~(t)~~

20 (u) “Video display device” means an electronic device with an
21 output surface that displays, or is capable of displaying, moving
22 graphical images or a visual representation of image sequences or
23 pictures, showing a number of quickly changing images on a screen
24 in fast succession to create the illusion of motion, including, if
25 applicable, a device that is an integral part of the display, in that
26 it cannot be easily removed from the display by the consumer, that
27 produces the moving image on the screen. A video display device
28 may use, but is not limited to, a cathode ray tube (CRT), liquid
29 crystal display (LCD), gas plasma, digital light processing, or other
30 image projection technology.

31 SEC. 3. Section 42464 of the Public Resources Code is
32 amended to read:

33 42464. (a) On and after January 1, 2005, or as otherwise
34 provided by Section 25214.10.1 of the Health and Safety Code, a
35 consumer shall pay a covered electronic waste recycling fee upon
36 the purchase of a new or refurbished covered electronic device, in
37 the following amounts:

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

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

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

6 (b) Except as provided in subdivision (d), a retailer shall collect
7 from the consumer a covered electronic waste recycling fee at the
8 time of the retail sale of a covered electronic device.

9 (c) (1) A retailer may retain 3 percent of the covered electronic
10 waste recycling fee as reimbursement for all costs associated with
11 the collection of the fee and shall transmit the remainder of the fee
12 to the state pursuant to Section 42464.4.

13 (2) If a retailer makes an election pursuant to paragraph (2) of
14 subdivision (d), and the conditions of subparagraphs (A), (B), and
15 (C) of paragraph (2) of subdivision (d) are met, the vendor, in lieu
16 of the retailer, may retain 3 percent of the covered electronic waste
17 recycling fee as reimbursement for all costs associated with the
18 collection of the fee and the vendor shall transmit the remainder
19 of the fee to the state pursuant to Section 42464.4.

20 (d) (1) If a retailer elects to pay the covered electronic waste
21 recycling fee on behalf of the consumer, the retailer shall provide
22 an express statement to that effect on the receipt given to the
23 consumer at the time of sale. If a retailer elects to pay the covered
24 electronic waste recycling fee on behalf of the consumer, the fee
25 is a debt owed by the retailer to the state, and the consumer is not
26 liable for the fee.

27 (2) A retailer may elect to pay the covered electronic waste
28 recycling fee on behalf of the consumer by paying the covered
29 electronic waste recycling fee to the retailer's vendor, but only if
30 all of the following conditions are met:

31 (A) The vendor is registered with the State Board of Equalization
32 to collect and remit the covered electronic waste recycling fee
33 pursuant to this chapter.

34 (B) The vendor holds a valid seller's permit pursuant to Article
35 2 (commencing with Section 6066) of Chapter 2 of Part 1 of
36 Division 2 of the Revenue and Taxation Code.

37 (C) The retailer pays the covered electronic waste recycling fee
38 to the vendor that is separately stated on the vendor's invoice to
39 the retailer.

(D) The retailer provides an express statement on the invoice, contract, or other record documenting the sale that is given to the consumer, that the covered electronic waste recycling fee has been paid on behalf of the consumer.

(3) For the purpose of making the election in paragraph (2), if the conditions set forth in subparagraphs (A), (B), (C), and (D) of paragraph (2), are met, the covered electronic waste recycling fee is a debt owed by the vendor to the state, and the retailer is not liable for the fee.

(e) The retailer shall separately state the covered electronic waste recycling fee on the receipt given to the consumer at the time of sale.

(f) On or before August 1, 2005, and, thereafter, no more frequently than annually, and no less frequently than biennially, ~~the board~~ *CalRecycle*, in collaboration with the department, shall review, at a public hearing, the covered electronic waste recycling fee and shall make any adjustments to the fee to ensure that there are sufficient revenues in the account to fund the covered electronic waste recycling program established pursuant to this chapter. Adjustments to the fee that are made on or before August 1, shall apply to the calendar year beginning the following January 1. ~~The board~~ *CalRecycle* shall base an adjustment of the covered electronic waste recycling fee on both of the following factors:

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

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

SEC. 4. Section 42465 of the Public Resources Code is amended to read:

42465. On and after the date specified in subdivision (a) of Section 42464, a person shall not sell a new or refurbished covered electronic device to a consumer in this state if ~~the board~~ *CalRecycle* or ~~the~~ department determines that the manufacturer of that covered electronic device is not in compliance with this chapter or as provided otherwise by Section 25214.10.1 of the Health and Safety Code.

SEC. 5. Section 42465.2 of the Public Resources Code is amended to read:

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

(1) Submit to ~~the board~~ *CalRecycle* a report that includes all of the following information:

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

(B) A baseline or set of baselines that show the total estimated amounts of mercury, cadmium, lead, hexavalent chromium, and PBB's used in covered electronic devices manufactured by the manufacturer in that year and the reduction in the use of those hazardous materials from the previous year.

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

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

(E) A list of those retailers, including, but not limited to, Internet and catalog retailers, to which the manufacturer provided a notice in the prior 12 months pursuant to Section 42465.3 and subdivision (c) of Section 25214.10.1 of the Health and Safety Code.

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

(b) (1) For the purposes of complying with paragraph (1) of subdivision (a), a manufacturer may submit a report to ~~the board~~ *CalRecycle* that includes only those covered electronic devices that include applications of the compounds listed in subparagraph (B) of paragraph (1) of subdivision (a) that are exempt from the Directive 2002/95/EC adopted by the European Parliament and

1 the Council of the European Union on January 27, 2003, and any
2 amendments made to that directive, if both of the following
3 conditions are met, as modified by Section 24214.10 of the Health
4 and Safety Code:

5 (A) The manufacturer submits written verification to the
6 department that demonstrates, to the satisfaction of the department,
7 that the manufacturer is in compliance with Directive 2002/95/EC,
8 and any amendments to that directive, for those covered electronic
9 devices for which it is not submitting a report to ~~the board~~
10 *CalRecycle* pursuant to this subdivision.

11 (B) The department certifies that the manufacturer is in
12 compliance with Directive 2002/95/EC, and any amendments to
13 that directive, for those covered electronic devices for which the
14 manufacturer is not submitting a report to the board pursuant to
15 this subdivision.

16 (2) When reporting pursuant to this subdivision, a manufacturer
17 is required only to report on specific applications of compounds
18 used in covered electronic devices that are exempt from Directive
19 2002/95/EC.

20 (c) Any information submitted to ~~the board~~ *CalRecycle* pursuant
21 to subdivision (a) that is proprietary in nature or a trade secret shall
22 be subject to protection under state laws and regulations governing
23 that information.

24 SEC. 6. Section 42474 of the Public Resources Code is
25 amended to read:

26 42474. (a) Civil liability in an amount of up to two thousand
27 five hundred dollars (\$2,500) per offense may be administratively
28 imposed by ~~the board~~ *CalRecycle* for each sale of a covered
29 electronic device for which a covered electronic waste recycling
30 fee has not been paid pursuant to Section 42464.

31 (b) A civil penalty in an amount of up to five thousand dollars
32 (\$5,000) per offense may be imposed by a superior court for each
33 sale of a covered electronic device for which a covered electronic
34 waste recycling fee has not been paid pursuant to Section 42464.

35 (c) Civil liability in an amount of up to twenty-five thousand
36 dollars (\$25,000) may be administratively imposed by ~~the board~~
37 *CalRecycle* against manufacturers for failure to comply with this
38 chapter, except as otherwise provided in subdivision (a).

39 SEC. 7. Section 42474.5 of the Public Resources Code is
40 repealed.

1 ~~42474.5. This chapter and all regulations adopted pursuant to~~
2 ~~this chapter may be enforced by the department pursuant to Chapter~~
3 ~~6.5 (commencing with Section 25100) of Division 20 of the Health~~
4 ~~and Safety Code.~~

5 SEC. 8. Section 42475 of the Public Resources Code is
6 amended to read:

7 42475. (a) ~~The board~~ *CalRecycle* shall administer and enforce
8 ~~this chapter in consultation with the department.~~

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

16 (c) ~~The board~~ *CalRecycle* shall adopt regulations pursuant to
17 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
18 3 of Title 2 of the Government Code that ensure the protection of
19 any proprietary information submitted to ~~the board~~ *CalRecycle* by
20 a manufacturer of covered electronic devices.

21 (d) ~~The board and the department~~ *CalRecycle* may prepare,
22 publish, or issue any materials that ~~the board or department~~
23 *CalRecycle* determines to be necessary for the dissemination of
24 information concerning the activities of ~~the board or department~~
25 *CalRecycle* under this chapter.

26 (e) In carrying out this chapter, ~~the board and the department~~
27 *CalRecycle* may solicit and use any and all expertise available in
28 other state agencies, including, but not limited to, the department;
29 ~~the Department of Conservation~~; and the State Board of
30 Equalization.

31 (f) *As of January 1, 2012, all employees of the department who*
32 *are serving in the state civil service, other than as temporary*
33 *employees, and who as of December 31, 2011, were employed with*
34 *the department for purposes of carrying out the duties, powers,*
35 *purposes, and responsibilities of the department under this chapter*
36 *shall be transferred to CalRecycle, in the same manner as provided*
37 *for the transfer of employees by subdivision (b) of Section 40401,*
38 *unless the employee serves in the capacity of carrying out Sections*
39 *25214.10.1 and 25214.10.2 of the Health and Safety Code.*

1 SEC. 9. Section 42475.2 of the Public Resources Code is
2 amended to read:

3 ~~42475.2. (a) The board and the department~~ *CalRecycle* may
4 ~~each~~ adopt regulations to implement and enforce this chapter as
5 emergency regulations.

6 (b) The emergency regulations adopted pursuant to this chapter
7 shall be adopted in accordance with Chapter 3.5 (commencing
8 with Section 11340) of Part 1 of Division 3 of Title 2 of the
9 Government Code, and for the purposes of that chapter, including
10 Section 11349.6 of the Government Code, the adoption of these
11 regulations is an emergency and shall be considered by the Office
12 of Administrative Law as necessary for the immediate preservation
13 of the public peace, health, safety, and general welfare.
14 Notwithstanding Chapter 3.5 (commencing with Section 11340)
15 of Part 1 of Division 3 of Title 2 of the Government Code, any
16 emergency regulations adopted by ~~the board or the department~~
17 *CalRecycle* pursuant to this section shall be filed with, but not be
18 repealed by, the Office of Administrative Law and shall remain
19 in effect for a period of two years or until revised by ~~or the board~~
20 ~~the department~~ *CalRecycle*, whichever occurs sooner.

21 SEC. 10. Section 42475.3 of the Public Resources Code is
22 amended to read:

23 42475.3. ~~The board~~ *CalRecycle* in collaboration with the
24 department shall convene a covered electronic waste working
25 group comprised of representatives from manufacturers of covered
26 electronic devices and other interested parties to develop and, by
27 July 1, 2005, advise ~~the board~~ *CalRecycle* and the State and
28 Consumer Services Agency on environmental purchasing criteria
29 that may be used by state agencies to identify covered electronic
30 devices with reduced environmental impacts. In defining criteria,
31 the group shall consider the environmental impacts of products
32 over their entire life cycle, as well as tradeoffs in other product
33 attributes such as safety, product functionality, and cost. The group
34 shall also consider any federal product evaluation or rating system,
35 or market based system to promote the development and sale of
36 environmentally conscious products.

37 SEC. 11. Section 42475.4 of the Public Resources Code is
38 amended to read:

39 42475.4. (a) ~~The board~~ *CalRecycle* shall annually establish,
40 and update as necessary, statewide recycling goals for covered

1 electronic waste. In implementing this section, ~~the board~~
2 *CalRecycle* shall do all of the following:

3 (1) Post on its Web site information on the amount of covered
4 electronic devices sold in the state in the previous year as reported
5 to ~~the board~~ *CalRecycle*.

6 (2) Post on its Web site information on the amount of covered
7 electronic waste recycled in the state in the previous year as
8 reported to ~~the board~~ *CalRecycle*.

9 (3) Develop and adopt recycling goals, with input from
10 manufacturers, retailers, covered electronic waste recyclers, and
11 collectors, that reflect projections of covered electronic device
12 sales, rates of obsolescence, and stockpiles.

13 (b) ~~Nothing in this~~ *This section authorizes the board does not*
14 *authorize CalRecycle* to establish any recycling rates or dates by
15 which a manufacturer of covered electronic devices shall comply
16 with this chapter; or to impose any other recycling goal or target
17 on a manufacturer of those devices.

18 SEC. 12. Section 42476 of the Public Resources Code is
19 amended to read:

20 42476. (a) The Electronic Waste and Recovery and Recycling
21 Account is hereby established in the Integrated Waste Management
22 Fund. All fees collected pursuant to this chapter shall be deposited
23 in the account. Notwithstanding Section 13340 of the Government
24 Code, the funds in the account are hereby continuously
25 appropriated, without regard to fiscal year, for the following
26 purposes:

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

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

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

34 (4) To make payments to manufacturers pursuant to subdivision
35 (g).

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

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

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

(C) To provide funding to the department to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as that chapter relates to covered electronic devices, and any regulations adopted by the department pursuant to that chapter Sections 25214.10.1 and 25214.10.2 of the Health and Safety Code.

~~(D)~~

(C) To establish the public information program specified in subdivision (d).

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

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

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

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

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

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

(2) The manufacturer or the authorized collector or recycler of the electronic waste provide provides a cost-free cost-free and convenient opportunity to recycle electronic waste, in accordance

1 with the legislative intent specified in subdivision (b) of Section
2 42461.

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

6 (4) ~~The board~~ *CalRecycle* declares that the state is a market
7 participant in the business of the recycling of covered electronic
8 waste for all of the following reasons:

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

11 (B) The purpose of the fee and subsequent payments is to
12 prevent damage to the public health and the environment from
13 waste generated in the state.

14 (C) The recycling system funded by the fee ensures that
15 economically viable and sustainable markets are developed and
16 supported for recovered materials and components in order to
17 conserve resources and maximize business and employment
18 opportunities within the state.

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

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

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

33 (2) A covered electronic device for which a payment is made
34 under this subdivision is not eligible for an electronic waste
35 recovery payment or an electronic waste recycling payment under
36 Section 42479.

37 SEC. 13. Section 42476.5 of the Public Resources Code is
38 amended to read:

39 42476.5. A person who exports covered electronic waste, or a
40 covered electronic device intended for recycling or disposal, to a

1 foreign country, or to another state for ultimate export to a foreign
2 country, shall do all of the following at least 60 days prior to
3 export:

4 (a) Notify ~~the department~~ *CalRecycle* of the destination,
5 disposition, contents, and volume of the waste, or device intended
6 for recycling or disposal to be exported, and include with the
7 notification the demonstrations required pursuant to subdivisions
8 (b) to (e), inclusive.

9 (b) Demonstrate that the waste or device is being exported for
10 the purposes of recycling or disposal.

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

18 (d) Demonstrate that the exportation of the waste or device is
19 conducted in accordance with applicable United States or
20 applicable international law.

21 (e) (1) Demonstrate that the waste or device will be managed
22 within the country of destination only at facilities whose operations
23 meet or exceed the binding decisions and implementing guidelines
24 of the Organization for Economic Cooperation and Development
25 for the environmentally sound management of the waste or device
26 being exported.

27 (2) The demonstration required by this subdivision applies to
28 any country of destination, notwithstanding that the country is not
29 a member of the Organization for Economic Cooperation and
30 Development.

31 SEC. 14. Section 42477 of the Public Resources Code is
32 amended to read:

33 42477. (a) On July 1, 2004, or as specified otherwise in Section
34 25214.10.1 of the Health and Safety Code, and on July 1 every
35 two years thereafter, ~~the board in collaboration with the department~~
36 *CalRecycle* shall establish an electronic waste recovery payment
37 schedule for covered electronic wastes generated in this state to
38 cover the net cost for an authorized collector to operate a free and
39 convenient system for collecting, consolidating and transporting
40 covered electronic wastes generated in this state.

1 (b) ~~The board~~ *CalRecycle* shall make the electronic waste
2 recovery payments either directly to an authorized collector or to
3 a covered electronic waste recycler for payment to an authorized
4 collector pursuant to this article.

5 SEC. 15. Section 42478 of the Public Resources Code is
6 amended to read:

7 42478. (a) Except as provided in subdivision (b), on July 1,
8 2004, or as specified otherwise in Section 25214.10.1 of the Health
9 and Safety Code, and on July 1 every two years thereafter, ~~the~~
10 ~~board, in collaboration with the department,~~ *CalRecycle* shall
11 establish a covered electronic waste recycling payment schedule
12 for covered electronic wastes generated in this state to cover the
13 average net cost for an electronic waste recycler to receive, process,
14 and recycle each major category, as determined by ~~the board~~
15 *CalRecycle*, of covered electronic waste received from an
16 authorized collector. ~~The board~~ *CalRecycle* shall make the
17 electronic waste recycling payments to a covered electronic waste
18 recycler pursuant to this article.

19 (b) ~~Until the board~~ *CalRecycle* adopts a new payment schedule
20 that covers the average net cost for an electronic waste recycler to
21 receive, process, and recycle each major category, as determined
22 by ~~the board~~ *CalRecycle*, of covered electronic waste received
23 from an authorized collector, the amount of the covered electronic
24 waste recycling payment shall be equal to twenty-eight cents
25 (\$0.28) per pound of the total weight of covered electronic waste
26 received from an authorized collector and subsequently processed
27 for recycling.

28 SEC. 16. Section 42479 of the Public Resources Code is
29 amended to read:

30 42479. (a) (1) For covered electronic waste collected for
31 recycling on and after January 1, 2005, ~~the board~~ *CalRecycle* shall
32 make electronic waste recovery payments and electronic waste
33 recycling payments for the collection and recycling of covered
34 electronic waste to an authorized collector or covered electronic
35 waste recycler, respectively, upon receipt of a completed and
36 verified invoice submitted to ~~the board~~ *CalRecycle* by the
37 authorized collector or recycler in the form and manner determined
38 by ~~the board~~ *CalRecycle*.

39 (2) To the extent authorized pursuant to Section 42477, a
40 covered electronic waste recycler shall make the electronic waste

1 recovery payments to an authorized collector upon receipt of a
2 completed and verified invoice submitted to the recycler by the
3 authorized collector in the form and manner determined by ~~the~~
4 ~~board~~ *CalRecycle*.

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

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

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

16 (A) The facility has been inspected by ~~the department~~
17 *CalRecycle* within the past 12 months and had been found to be
18 operating in conformance with all applicable laws, regulations,
19 and ordinances.

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

22 (C) The facility has health and safety, employee training, and
23 environmental compliance plans and certifies compliance with the
24 plans.

25 (D) The facility meets or exceed the standards specified in
26 Chapter 1 (commencing with Section 1171) of Part 4 of Division
27 2, Division 4 (commencing with Section 3200), and Division 5
28 (commencing with Section 6300), of the Labor Code or, if all or
29 part of the work is to be performed in another state, the equivalent
30 requirements of that state.

31 SEC. 17. Section 42485 of the Public Resources Code is
32 amended to read:

33 42485. Except as provided in subdivision (b) of Section 42486,
34 ~~the board and the department~~ *CalRecycle* shall not implement this
35 chapter if either of the following occur:

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

38 (1) Establishes a program for the collection, recycling, and
39 proper disposal of covered electronic waste that is applicable to
40 all covered electronic devices sold in the United States.

1 (2) Provides revenues to the state to support the collection,
2 recycling, and proper disposal of covered electronic waste, in an
3 amount that is equal to, or greater than, the revenues that would
4 be generated by the fee imposed under Section 42464.

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

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