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An Act To Enhance Maine's Electronic Waste Recycling Law

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation requires electronics manufacturers to register by July 1, 2009, which is before the expiration of the 90-day period; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1310-B, sub-§2, as repealed and replaced by PL 2007, c. 466, Pt. A, §72, is amended to read:

2. Hazardous waste information and information on mercury-added products and electronic devices and mercury reduction plans. Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B, information relating to electronic devices submitted to the department under section 1610, subsection 6, ~~paragraph A, subparagraph (4), division (i) and section 1610, subsection 6, paragraph B6-A~~ or information relating to mercury reduction plans submitted to the department under section 585-B, subsection 6 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346.

All information provided by the department to the municipality under this subsection is confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

Sec. 2. 38 MRSA §1610, sub-§2, ¶A, as reallocated by RR 2003, c. 2, §119, is amended to read:

A. "Computer monitor" means a covered electronic device that is a cathode ray tube or flat panel display primarily intended to display information from a central processing unit or the Internet. "Computer monitor" includes a digital picture frame.

Sec. 3. 38 MRSA §1610, sub-§2, ¶C, as reallocated by RR 2003, c. 2, §119, is amended to read:

C. "Covered electronic device" means a computer central processing unit, a desktop printer, a video game console, a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards. "Covered electronic device" does not include an automobile, a household appliance, a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the Federal Food, Drug, and Cosmetic Act.

Sec. 4. 38 MRSA §1610, sub-§2, ¶C-1 is enacted to read:

C-1. "Desktop printer" means a device that prints text or illustrations on paper and that is designed for external use with a desktop or portable computer. "Desktop printer" includes, but is not limited to, a daisy wheel, dot matrix, inkjet, laser, LCD and LED line or thermal printer, including a device that performs other functions in addition to printing such as copying, scanning or transmitting a facsimile.

Sec. 5. 38 MRSA §1610, sub-§2, ¶L is enacted to read:

L. "Video game console" means an interactive entertainment computer or electronic device that produces a video display signal that can be used with a display device such as a television or computer monitor to display a video game.

Sec. 6. 38 MRSA §1610, sub-§5, as amended by PL 2007, c. 292, §43, is further amended to read:

5. Responsibility for recycling. Municipalities, consolidators, manufacturers and the State share responsibility for the disposal of covered electronic devices as provided in this subsection.

A. Each municipality that chooses to participate in the state collection and recycling system shall ensure that computer monitors and televisions generated as waste from households within that municipality's jurisdiction are delivered to a consolidation facility in this State. A municipality may

meet this requirement through collection at and transportation from a local or regional solid waste transfer station or recycling facility, by contracting with a disposal facility to accept waste directly from the municipality's residents or through curbside pickup or other convenient collection and transportation system.

B. A consolidator is subject to the requirements of this paragraph.

(1) ~~Beginning January 1, 2006, a~~A consolidator shall identify the manufacturer of each waste computer monitor ~~and waste, television, desktop printer and video game console~~ delivered to a consolidation facility and identified as generated by a household in this State and shall maintain an accounting of the number of ~~waste household computer monitors and waste household, televisions, desktop printers and video game consoles~~ by manufacturer. By March 1st each year ~~beginning in 2007~~, a consolidator shall provide this accounting by manufacturer to the department.

(2) A consolidator may perform the manufacturer identification required by subparagraph (1) at the consolidation facility or may contract for this identification and accounting service with the recycling and dismantling facility to which the ~~waste is covered electronic devices~~ are shipped.

(3) A consolidator shall work cooperatively with manufacturers to ensure implementation of a practical and feasible financing system. At a minimum, a consolidator shall invoice the manufacturers for the handling, transportation and recycling costs for which they are responsible under the provisions of this subsection.

(4) A consolidator shall transport ~~waste computer monitors and waste, televisions, desktop printers and video game consoles~~ to a recycling and dismantling facility that provides a sworn certification pursuant to paragraph C. A consolidator shall maintain for a minimum of 3 years a copy of the sworn certification from each recycling and dismantling facility that receives covered electronic devices from the consolidator and shall provide the department with a copy of these records within 24 hours of request by the department.

C. A recycling and dismantling facility shall provide to a consolidator a sworn certification that its handling, processing, refurbishment and recycling of covered electronic devices meet guidelines for environmentally sound management published by the department.

D. ~~Computer monitor manufacturers and, television, desktop printer and video game console manufacturers~~ are subject to the requirements of this paragraph.

(1) ~~Ninety days after the department adopts rules as provided for in this subparagraph,~~ Each computer monitor manufacturer ~~and, each television manufacturer, each desktop printer manufacturer and each video game console manufacturer~~ is individually responsible for handling and recycling all computer monitors ~~and, televisions, desktop printers and video game~~

consoles that are produced by that manufacturer or by any business for which the manufacturer has assumed legal responsibility, that are generated as waste by households in this State and that are received at consolidation facilities in this State. In addition, each computer monitor manufacturer is responsible for a pro rata share of orphan waste computer monitors and, each television manufacturer is responsible for a pro rata share of orphan waste televisions, each desktop printer manufacturer is responsible for a pro rata share of orphan waste desktop printers and each video game console manufacturer is responsible for a pro rata share of orphan waste video game consoles generated as waste by households in this State and received at consolidation facilities ~~in this State~~. The manufacturers shall pay the reasonable operational costs of the consolidator attributable to the handling of all computer monitors and, televisions, desktop printers and video game consoles generated as waste by households in this State, the transportation costs from the consolidation facility to a licensed recycling and dismantling facility and the costs of recycling. ~~The manufacturers shall ensure~~Reasonable operational costs include ensuring that consolidation facilities are geographically located to conveniently serve all areas of the State as determined by the department. ~~By November 1, 2005, the department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A that identify the criteria that consolidators must use to determine reasonable operational costs attributable to the handling of computer monitors and televisions.~~

(2) Each computer monitor manufacturer and, television manufacturer, desktop printer manufacturer and video game console manufacturer shall work cooperatively with consolidators to ensure implementation of a practical and feasible financing system. Within 90 days of receipt of an invoice, a manufacturer shall reimburse a consolidator for allowable costs incurred by that consolidator.

E. ~~Annually, beginning January 1, 2006, by January 1st~~ the department shall provide manufacturers and consolidators with a listing of each manufacturer's pro rata share of orphan waste computer monitors and, televisions, desktop printers and video game consoles. The department shall determine each manufacturer's pro rata share based on the best available information, including but not limited to data provided by manufacturers and consolidators and data from electronic waste collection programs in other jurisdictions within the United States.

Sec. 7. 38 MRSA §1610, sub-§6, as amended by PL 2007, c. 292, §44, is repealed.

Sec. 8. 38 MRSA §1610, sub-§6-A is enacted to read:

6-A. Manufacturer registration. By July 1st annually, a manufacturer that offers or has offered a computer monitor, television, desktop printer or video game console for sale in this State shall submit a registration to the department that includes:

A. The name, contact and billing information of the manufacturer;

B. The manufacturer's brand name or names and the type of televisions, video game consoles, computer monitors and desktop printers on which each brand is used, including:

(1) All brands sold in the State in the past; and

(2) All brands currently being sold in the State;

C. When a word or phrase is used as the label, the manufacturer must include that word or phrase and a general description of the ways in which it may appear on the manufacturer's electronic products;

D. When a logo, mark or image is used as a label, the manufacturer must include a graphic representation of the logo, mark or image and a general description of the logo, mark or image as it appears on the manufacturer's electronic products;

E. The method or methods of sale used in the State;

F. Annual sales data on the number and type of computer monitors, televisions, desktop printers and video game consoles sold by the manufacturer in this State over the 5 years preceding the filing of the plan. The department may keep information submitted pursuant to this paragraph confidential as provided under section 1310-B; and

G. The manufacturer's consolidator handling option for the next calendar year, as selected in accordance with rules adopted pursuant to subsection 10.

A manufacturer's annual registration filed subsequent to its initial registration must clearly delineate any changes in information from the previous year's registration. Whenever there is any change to the information on the manufacturer's registration, the manufacturer shall submit an updated form within 14 days of the change.

Sec. 9. 38 MRSA §1610, sub-§10 is enacted to read:

10. Rulemaking. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A as necessary to implement, administer and enforce this chapter. The rules must identify the criteria that consolidators must use to determine reasonable operational costs attributable to the handling of computer monitors, video game consoles, televisions and desktop printers.

Sec. 10. 38 MRSA §1610, sub-§11 is enacted to read:

11. Interstate clearinghouse for electronic waste. The department may participate in the establishment and implementation of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

Sec. 11. Transition. Prior to July 1, 2009, a manufacturer may meet the requirements of the Maine Revised Statutes, Title 38, section 1610, subsection 6 by registering in accordance with section 1610, subsection 6-A as enacted in this Act.

Sec. 12. Application. The provisions of the Maine Revised Statutes, Title 38, section 1610, subsection 5, paragraph D apply to desktop printers and video game consoles beginning January 1, 2010.

Sec. 13. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 38, section 1610, subsection 6-A takes effect July 1, 2009.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

SUMMARY

This bill amends Maine's electronics recycling laws to do the following.

1. It adds desktop printers and video game consoles to the electronic devices covered by the recycling laws.
2. It clarifies that digital picture frames are a type of computer monitor and, as such, are subject to the recycling laws.
3. It repeals provisions that currently require manufacturers of covered electronic devices to submit a recycling plan and an annual report to the Department of Environmental Protection and replaces the repealed manufacturer responsibility provisions with an annual registration requirement designed to reduce the regulatory burden for manufacturers while providing the information needed by the Department of Environmental Protection to effectively administer the recycling laws.