

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by inserting after section 4 the following:

‘**Sec. 5. 38 MRSA §1610, sub-§2, ¶D-1** is enacted to read:

D-1. "Market share" means a manufacturer's national sales of a covered electronic device expressed as a percentage of the total of all manufacturers' national sales for that category of covered electronic devices.

Sec. 6. 38 MRSA §1610, sub-§2, ¶G, as reallocated by RR 2003, c. 2, §119, is amended to read:

G. "Orphan waste" means a covered electronic device, excluding a video game console, the manufacturer of which can not be identified or is no longer in business and has no successor in interest.’

Amend the bill by striking out all of section 6 and inserting the following:

‘**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, desktop printers and video game consoles 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~~ consolidator shall identify the manufacturer of each waste computer monitor and ~~waste television~~desktop printer 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 by manufacturer. By March 1st each year ~~beginning in 2007~~, a consolidator shall provide this accounting by manufacturer to the department.

(1-A) A consolidator shall maintain a written log of the total weight of video game consoles delivered each month to the consolidator and identified as generated by a household in the State. By March 1st each year, a consolidator shall provide this accounting 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 with costs calculated for video game consoles on a basis proportional to the manufacturer's national market share of video game consoles in the State multiplied by the total pounds recycled. 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~~Each computer monitor manufacturer and each ~~television~~desktop printer manufacturer is individually responsible for handling and recycling all computer monitors and ~~televisions~~desktop printers 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~~desktop printer manufacturer is responsible for a pro rata share of orphan waste ~~televisions~~desktop printers 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" includes the costs associated with 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. The recycling of video game consoles must be funded by allocating the cost of the program among the manufacturers selling video game consoles in the State on a basis proportional to the manufacturer's national market share of video game consoles. The department shall annually determine each video game console manufacturer's recycling share based on readily available national market share data. If the department determines that a video game console manufacturer's market share is less than 1/10 of 1%, the department may determine that market share de minimus. A video game console manufacturer whose market share is determined de minimus by the department is not responsible for payment of a pro rata share of video game consoles for the corresponding billing year. The total market shares determined de minimus by the department must be proportionally allocated to and paid for by the video game console manufacturers that have 1/10 of 1% or more of the market.~~

(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 of computer monitors and desktop printers and consolidators with a listing of each manufacturer's pro rata share of orphan waste computer monitors and televisions desktop printers. 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. Annually by January 1st, the department shall also provide manufacturers of video game consoles and consolidators with a listing of each video game console manufacturer's proportional market share responsibility for the recycling of video game consoles for the subsequent calendar year.'~~

Amend the bill by inserting after section 8 the following:

‘Sec. 9. 38 MRSA §1610, sub-§7, as amended by PL 2005, c. 330, §40, is further amended to read:

7. Enforcement; cost recovery. The department must enforce this section in accordance with the provisions of sections 347-A and 349. If a manufacturer fails to pay for the costs allocated to it pursuant to section 1610, subsection 5, paragraph D, subparagraph (1), including, for a computer monitor manufacturer and a desktop printer manufacturer, its pro rata share of costs attributable to orphan waste, the department may pay a consolidator its legitimate costs from the Maine Solid Waste Management Fund established in section 2201 and seek cost recovery from the nonpaying manufacturer. Any nonpaying manufacturer is liable to the State for costs incurred by the State in an amount up to 3 times the amount incurred as a result of such failure to comply.

The Attorney General is authorized to commence a civil action against any manufacturer to recover the costs described in this subsection, which are in addition to any fines and penalties established pursuant to section 349. Any money received by the State pursuant to this subsection must be deposited in the Maine Solid Waste Management Fund established in section 2201.'

Amend the bill by striking out all of section 12.

Amend the bill in section 13 in the last line (page 5, line 36 in L.D.) by inserting at the end the following: 'Those sections of this Act that amend Title 38, section 1610, subsections 5 and 7 take effect January 1, 2010.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the minority report of the committee. Effective January 1, 2010, it changes the basis for video game console manufacturers' responsibility for recycling video game consoles to a market share basis and it removes television manufacturers' responsibility for recycling televisions under a return share basis. It differs from the majority report in that it does not require manufacturers of computer monitors, televisions, desktop printers and video game consoles to pay an annual registration fee of \$3,000.

FISCAL NOTE REQUIRED

(See attached)