

**ESHB 1824 - S AMD 214**

By Senator Ericksen

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.95N.010 and 2006 c 183 s 1 are each amended to  
4 read as follows:

5 The legislature finds that a convenient, safe, and  
6 environmentally sound system for the collection, transportation, and  
7 recycling of covered electronic products must be established. The  
8 legislature further finds that the system must encourage the design  
9 of electronic products that are less toxic and more recyclable. The  
10 legislature further finds that the responsibility for this system  
11 must be shared among all stakeholders, with manufacturers financing  
12 the collection, transportation, and recycling system. The legislature  
13 further finds that the authority that is charged with developing,  
14 financing, and implementing this system must perform these functions  
15 with full public disclosure and that the department must exercise  
16 strong oversight of the performance of the authority.

17 **Sec. 2.** RCW 70.95N.280 and 2006 c 183 s 29 are each amended to  
18 read as follows:

19 (1) The Washington materials management and financing authority  
20 is established as a public body corporate and politic, constituting  
21 an instrumentality of the state of Washington exercising essential  
22 governmental functions.

23 (2) The authority shall plan and implement a collection,  
24 transportation, and recycling program for manufacturers that have  
25 registered with the department their intent to participate in the  
26 standard program as required under RCW 70.95N.040.

27 (3) Membership in the authority is comprised of registered  
28 participating manufacturers. Any registered manufacturer who does not  
29 qualify or is not approved to submit an independent plan, or whose  
30 independent plan has not been approved by the department, is a member

1 of the authority. All new entrants and white box manufacturers are  
2 also members of the authority.

3 (4) The authority shall act as a business management organization  
4 on behalf of the citizens of the state to manage financial resources  
5 and contract for services for collection, transportation, and  
6 recycling of covered electronic products.

7 (5) The authority's standard plan is responsible for collecting,  
8 transporting, and recycling the sum of the equivalent shares of each  
9 participating manufacturer.

10 (6) The authority shall accept into the standard program covered  
11 electronic products from any registered collector who meets the  
12 requirements of this chapter. The authority shall compensate  
13 registered collectors for the reasonable costs associated with  
14 collection, but is not required to compensate nor restricted from  
15 compensating the additional collection costs resulting from the  
16 additional convenience offered to customers through premium and  
17 curbside services.

18 (7) The authority shall accept and utilize in the standard  
19 program any registered processor meeting the requirements of this  
20 chapter and any requirements described in the authority's operating  
21 plan or through contractual arrangements. Priority must be given to  
22 processors operating in the state of Washington. Processors utilized  
23 by the standard plan shall provide documentation to the authority at  
24 least annually regarding how they are meeting the requirements in RCW  
25 70.95N.250 (~~and section 26 of this act~~), including enough detail to  
26 allow the standard plan to meet its reporting requirements in RCW  
27 70.95N.140(2)(c) (~~and (d)~~), and must submit to audits conducted by  
28 or for the authority. The authority shall compensate such processors  
29 for the reasonable costs, as determined by the authority, associated  
30 with processing unwanted electronic products. Such processors must  
31 demonstrate that the unwanted electronic products have been received  
32 from registered collectors or transporters, and provide other  
33 documentation as may be required by the authority.

34 (8) Except as specifically allowed in this chapter, the authority  
35 shall operate without using state funds or lending the credit of the  
36 state or local governments.

37 (9) The authority shall develop innovative approaches to improve  
38 materials management efficiency in order to ensure and increase the  
39 use of secondary material resources within the economy.

1       **Sec. 3.** RCW 70.95N.250 and 2006 c 183 s 25 are each amended to  
2 read as follows:

3       (1) The authority and each authorized party shall ensure that  
4 each processor used directly by the authority or the authorized party  
5 to fulfill the requirements of their respective standard plan or  
6 independent plan has provided the authority or the authorized party a  
7 written statement that the processor will comply with the  
8 requirements of this section (~~(and section 26 of this act)~~).

9       (2)(a) The department shall establish by rule performance  
10 standards for environmentally sound management for processors  
11 directly used to fulfill the requirements of an independent plan or  
12 the standard plan. Performance standards may include financial  
13 assurance to ensure proper closure of facilities consistent with  
14 environmental standards.

15       **(b) A transporter, collector, or processor may not be utilized in**  
16 **an independent plan or the standard plan for a minimum period of**  
17 **three years following two willful violations occurring after July 1,**  
18 **2017, if the transporter, collector, or processor violated the**  
19 **performance standards for activities related to the export of covered**  
20 **electronic products, or related to the improper recycling, storage,**  
21 **or disposal of covered electronic products.**

22       (3) The department shall establish by rule guidelines regarding  
23 nonrecycled residual that may be properly disposed after covered  
24 electronic products have been processed.

25       (4) The department (~~(may audit)~~) shall periodically audit  
26 transporters, collectors, and processors that are utilized to fulfill  
27 the requirements of an independent plan or the standard plan.

28       (5) No plan or program required under this chapter may include  
29 the use of federal or state prison labor for processing.

30       **Sec. 4.** RCW 70.95N.060 and 2006 c 183 s 6 are each amended to  
31 read as follows:

32       (1) All initial independent plans and the initial standard plan  
33 required under RCW 70.95N.050 must be submitted to the department by  
34 February 1, 2008. The department shall review each independent plan  
35 and the standard plan.

36       (2) The authority submitting the standard plan and each  
37 authorized party submitting an independent plan to the department  
38 must pay a fee to the department to cover the costs of administering

1 and implementing this chapter. The department shall set the fees as  
2 described under RCW 70.95N.230.

3 (3) The fees in subsection (2) of this section apply to the  
4 initial plan submission and plan updates and revisions required in  
5 RCW 70.95N.070.

6 (4) Within ninety days after receipt of a plan, the department  
7 shall determine whether the plan complies with this chapter. If the  
8 plan is approved, the department shall send a letter of approval. If  
9 a plan is rejected, the department shall provide the reasons for  
10 rejecting the plan to the authority or authorized party. The  
11 authority or authorized party must submit a new plan within sixty  
12 days after receipt of the letter of disapproval.

13 (5) An independent plan and the standard plan must contain the  
14 following elements:

15 (a) Contact information for the authority or authorized party and  
16 a comprehensive list of all manufacturers participating in the plan  
17 and their contact information;

18 (b) A description of the collection, transportation, and  
19 recycling systems and service providers used, including a description  
20 of how the authority or authorized party will:

21 (i) Seek to use businesses within the state, including retailers,  
22 charities, processors, and collection and transportation services;

23 (ii) Fairly compensate collectors for providing collection  
24 services; and

25 (iii) Fairly compensate processors for providing processing  
26 services;

27 (c) The method or methods for the reasonably convenient  
28 collection of all product types of covered electronic products in  
29 rural and urban areas throughout the state, including how the plan  
30 will provide for collection services in each county of the state and  
31 for a minimum of one collection site or alternate collection service  
32 for each city or town with a population greater than ten thousand. A  
33 collection site for a county may be the same as a collection site for  
34 a city or town in the county;

35 (d) A description of how the plan will provide service to small  
36 businesses, small governments, charities, and school districts in  
37 Washington;

38 (e) The processes and methods used to recycle covered electronic  
39 products including a description of the processing that will be used  
40 and the facility location;

1 (f) Documentation of audits of each processor used in the plan  
2 and compliance with processing standards established under RCW  
3 70.95N.250 (~~and section 26 of this act~~);

4 (g) A description of the accounting and reporting systems that  
5 will be employed to track progress toward the plan's equivalent  
6 share;

7 (h) A timeline describing start-up, implementation, and progress  
8 towards milestones with anticipated results;

9 (i) A public information campaign to inform consumers about how  
10 to recycle their covered electronic products at the end of the  
11 product's life; and

12 (j) A description of how manufacturers participating in the plan  
13 will communicate and work with processors utilized by that plan to  
14 promote and encourage design of electronic products and their  
15 components for recycling.

16 (6) The standard plan shall address how it will incorporate and  
17 fairly compensate registered collectors providing curbside or premium  
18 services such that they are not compensated at a lower rate for  
19 collection costs than the compensation offered other collectors  
20 providing drop-off collection sites in that geographic area.

21 (7) All transporters, collectors, and processors used to fulfill  
22 the requirements of this section must be registered as described in  
23 RCW 70.95N.240.

24 (8) The department must periodically review the standard plan and  
25 all revisions to the plan.

26 **Sec. 5.** RCW 70.95N.290 and 2013 c 305 s 12 are each amended to  
27 read as follows:

28 (1)(a) The authority is governed by a board of directors. The  
29 board of directors is comprised of eleven participating  
30 manufacturers, appointed by the director of the department. For  
31 program years 2009 through 2015, five board positions are reserved  
32 for representatives of the top ten brand owners by return share of  
33 covered electronic products, and six board positions are reserved for  
34 representatives of other brands, including at least one board  
35 position reserved for a manufacturer who is also a retailer selling  
36 their own private label. The return share of covered electronic  
37 products used to determine the top ten brand owners for purposes of  
38 electing the board must be determined by the department by January 1,  
39 2007. For program years 2016 and beyond, five board positions are

1 reserved for representatives of the top ten brand owners by market  
2 share of covered electronic products, and six board positions are  
3 reserved for representatives of other brands, including at least one  
4 board position reserved for a manufacturer who is also a retailer  
5 selling its own private label. The market share of covered electronic  
6 products used to determine the top ten brand owners for purposes of  
7 electing the board must be determined by the department by October 1,  
8 2015.

9 (b) The board must have representation from both television and  
10 computer manufacturers.

11 (2) The board shall select from its membership the chair of the  
12 board and such other officers as it deems appropriate.

13 (3) A majority of the board constitutes a quorum.

14 (4) The directors of the department of commerce and the  
15 department of ecology serve as ex officio members and they or their  
16 designees must attend a minimum of three board meetings each year.  
17 The state agency directors serving in ex officio capacity may each  
18 designate an employee of their respective departments to act on their  
19 behalf in all respects with regard to any matter to come before the  
20 authority. Ex officio designations must be made in writing and  
21 communicated to the authority director.

22 (5) The board shall create its own bylaws in accordance with the  
23 laws of the state of Washington.

24 (6) Any member of the board may be removed for misfeasance,  
25 malfeasance, or willful neglect of duty after notice and a public  
26 hearing, unless the notice and hearing are expressly waived in  
27 writing by the affected member.

28 (7) The members of the board serve without compensation but are  
29 entitled to reimbursement, solely from the funds of the authority,  
30 for expenses incurred in the discharge of their duties under this  
31 chapter."

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32 On page 1, line 1 of the title, after "recycling;" strike the  
33 remainder of the title and insert "and amending RCW 70.95N.010,  
34 70.95N.280, 70.95N.250, 70.95N.060, and 70.95N.290."

EFFECT: Clarifies suspensions for willful violations are prospective and modifies the violations that may result in a suspension. Removes reporting requirements for contracted rates and volumes. Removes provisions related to the deposit of penalties.

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