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HOUSE BILL 1824

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State of Washington

65th Legislature

2017 Regular Session

**By** Representatives Peterson, Lovick, Kagi, Ortiz-Self, Tarleton, Robinson, Stanford, Ormsby, and Doglio

Read first time 01/31/17. Referred to Committee on Environment.

1 AN ACT Relating to electronic product recycling; amending RCW  
2 70.95N.010, 70.95N.290, 70.95N.280, 70.95N.250, and 70.95N.060; and  
3 reenacting and amending RCW 70.95N.140.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.95N.010 and 2006 c 183 s 1 are each amended to  
6 read as follows:

7 The legislature finds that a convenient, safe, and  
8 environmentally sound system for the collection, transportation, and  
9 recycling of covered electronic products must be established. The  
10 legislature further finds that the system must encourage the design  
11 of electronic products that are less toxic and more recyclable. The  
12 legislature further finds that the responsibility for this system  
13 must be shared among all stakeholders, with manufacturers financing  
14 the collection, transportation, and recycling system. The legislature  
15 further finds that the authority that is charged with developing,  
16 financing, and implementing this system must perform these functions  
17 with full public disclosure, that their work be consistent with state  
18 contracting standards applicable to other governmental agency  
19 procurement, and that the department must exercise strong oversight  
20 of the performance of the authority.

1       **Sec. 2.** RCW 70.95N.290 and 2013 c 305 s 12 are each amended to  
2 read as follows:

3       (1)(a) The authority is governed by a board of directors. The  
4 board of directors is comprised of eleven participating  
5 manufacturers, appointed by the director of the department. For  
6 program years 2009 through 2015, five board positions are reserved  
7 for representatives of the top ten brand owners by return share of  
8 covered electronic products, and six board positions are reserved for  
9 representatives of other brands, including at least one board  
10 position reserved for a manufacturer who is also a retailer selling  
11 their own private label. The return share of covered electronic  
12 products used to determine the top ten brand owners for purposes of  
13 electing the board must be determined by the department by January 1,  
14 2007. For program years 2016 and beyond, five board positions are  
15 reserved for representatives of the top ten brand owners by market  
16 share of covered electronic products, and six board positions are  
17 reserved for representatives of other brands, including at least one  
18 board position reserved for a manufacturer who is also a retailer  
19 selling its own private label. The market share of covered electronic  
20 products used to determine the top ten brand owners for purposes of  
21 electing the board must be determined by the department by October 1,  
22 2015. Two board positions are reserved for representatives of  
23 companies engaged in the collection, transportation, and direct  
24 processing of discarded electronic products. One board position is  
25 reserved for a representative of organizations advocating for  
26 increasing the recycling and reuse of discarded electronic products.  
27 These positions must rotate every two years.

28       (b) The board must have representation from both television and  
29 computer manufacturers.

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

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

33       (4) The directors of the department of commerce and the  
34 department of ecology serve as ex officio members and they or their  
35 designees must attend a minimum of three board meetings each year.  
36 The state agency directors serving in ex officio capacity may each  
37 designate an employee of their respective departments to act on their  
38 behalf in all respects with regard to any matter to come before the  
39 authority. Ex officio designations must be made in writing and  
40 communicated to the authority director.

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

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

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

11 **Sec. 3.** RCW 70.95N.280 and 2006 c 183 s 29 are each amended to  
12 read as follows:

13 (1) The Washington materials management and financing authority  
14 is established as a public body corporate and politic, constituting  
15 an instrumentality of the state of Washington exercising essential  
16 governmental functions. In procuring goods and services, the  
17 authority shall be guided by the policies and procedures applicable  
18 to state agencies under chapter 39.26 RCW.

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

23 (3) Membership in the authority is comprised of registered  
24 participating manufacturers. Any registered manufacturer who does not  
25 qualify or is not approved to submit an independent plan, or whose  
26 independent plan has not been approved by the department, is a member  
27 of the authority. All new entrants and white box manufacturers are  
28 also members of the authority.

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

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

36 (6) The authority shall accept into the standard program covered  
37 electronic products from any registered collector who meets the  
38 requirements of this chapter. The authority shall compensate  
39 registered collectors for the reasonable costs associated with

1 collection, but is not required to compensate nor restricted from  
2 compensating the additional collection costs resulting from the  
3 additional convenience offered to customers through premium and  
4 curbside services.

5 (7) The authority shall accept and utilize in the standard  
6 program any registered processor meeting the requirements of this  
7 chapter and any requirements described in the authority's operating  
8 plan or through contractual arrangements. Priority must be given to  
9 processors operating in the state of Washington. Processors utilized  
10 by the standard plan shall provide documentation to the authority at  
11 least annually regarding how they are meeting the requirements in RCW  
12 70.95N.250 (~~and section 26 of this act~~), including enough detail to  
13 allow the standard plan to meet its reporting requirements in RCW  
14 70.95N.140(2)(c) (~~and (d)~~), and must submit to audits conducted by  
15 or for the authority. The authority shall compensate such processors  
16 for the reasonable costs, as determined by the authority, associated  
17 with processing unwanted electronic products. Such processors must  
18 demonstrate that the unwanted electronic products have been received  
19 from registered collectors or transporters, and provide other  
20 documentation as may be required by the authority.

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

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

27 **Sec. 4.** RCW 70.95N.250 and 2006 c 183 s 25 are each amended to  
28 read as follows:

29 (1) The authority and each authorized party shall ensure that  
30 each processor used directly by the authority or the authorized party  
31 to fulfill the requirements of their respective standard plan or  
32 independent plan has provided the authority or the authorized party a  
33 written statement that the processor will comply with the  
34 requirements of this section (~~and section 26 of this act~~).

35 (2) The department shall establish by rule performance standards  
36 for environmentally sound management for processors directly used to  
37 fulfill the requirements of an independent plan or the standard plan.  
38 Performance standards may include financial assurance to ensure  
39 proper closure of facilities consistent with environmental standards.

1 A transporter, collector, or processor utilized in an independent  
2 plan or the standard plan that is determined by the department to  
3 have willfully violated these performance standards or other  
4 requirements of this chapter may not be utilized in the plan as a  
5 preferred participant for a minimum period of three years following  
6 the violation.

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

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

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

15 **Sec. 5.** RCW 70.95N.060 and 2006 c 183 s 6 are each amended to  
16 read as follows:

17 (1) All initial independent plans and the initial standard plan  
18 required under RCW 70.95N.050 must be submitted to the department by  
19 February 1, 2008. The department shall review each independent plan  
20 and the standard plan.

21 (2) The authority submitting the standard plan and each  
22 authorized party submitting an independent plan to the department  
23 must pay a fee to the department to cover the costs of administering  
24 and implementing this chapter. The department shall set the fees as  
25 described under RCW 70.95N.230.

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

29 (4) Within ninety days after receipt of a plan, the department  
30 shall determine whether the plan complies with this chapter. If the  
31 plan is approved, the department shall send a letter of approval. If  
32 a plan is rejected, the department shall provide the reasons for  
33 rejecting the plan to the authority or authorized party. The  
34 authority or authorized party must submit a new plan within sixty  
35 days after receipt of the letter of disapproval.

36 (5) An independent plan and the standard plan must contain the  
37 following elements:

1 (a) Contact information for the authority or authorized party and  
2 a comprehensive list of all manufacturers participating in the plan  
3 and their contact information;

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

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

9 (ii) Fairly compensate collectors for providing collection  
10 services; ~~((and))~~

11 (iii) Fairly compensate processors for providing processing  
12 services; and

13 (iv) Review service contracts and provide for contract rate and  
14 volume revisions at least two times per year to adjust for changes in  
15 market conditions;

16 (c) The method or methods for the reasonably convenient  
17 collection of all product types of covered electronic products in  
18 rural and urban areas throughout the state, including how the plan  
19 will provide for collection services in each county of the state and  
20 for a minimum of one collection site or alternate collection service  
21 for each city or town with a population greater than ten thousand. A  
22 collection site for a county may be the same as a collection site for  
23 a city or town in the county;

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

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

30 (f) Documentation of audits of each processor used in the plan  
31 and compliance with processing standards established under RCW  
32 70.95N.250 ~~((and section 26 of this act))~~;

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

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

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

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

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

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

13 (8) The department must periodically review the standard plan and  
14 all revisions to the plan to ensure that the authority is consistent  
15 in its allocation of product volume among contracted transporters,  
16 collectors, and processors, that the authority engages in competitive  
17 rate and volume negotiations, and that the authority is consistent in  
18 its administration of the standard plan.

19 **Sec. 6.** RCW 70.95N.140 and 2013 c 305 s 6 and 2013 c 292 s 1 are  
20 each reenacted and amended to read as follows:

21 (1) By March 1st of the second program year and each program year  
22 thereafter, the authority and each authorized party shall file with  
23 the department an annual report for the preceding program year.

24 (2) The annual report must include the following information:

25 (a) The total weight in pounds of each type of covered electronic  
26 products collected and recycled, by county, during the preceding  
27 program year including documentation verifying collection and  
28 processing of that material. The total weight in pounds includes  
29 orphan products. The report must also indicate and document the  
30 weight in pounds received from each nonprofit charitable organization  
31 primarily engaged in the business of reuse and resale used by the  
32 plan. The report must document the weight in pounds that were  
33 received in large quantities from small businesses, small  
34 governments, charities and school districts as described in RCW  
35 70.95N.090(5);

36 (b) The collection services provided in each county and for each  
37 city with a population over ten thousand including a list of all  
38 collection sites and services operating in the state in the prior  
39 program year and the parties who operated them;

1 (c)(i) A list of processors used, the weight of covered  
2 electronic products processed by each direct processor, and a  
3 description of the processes and methods used to recycle the covered  
4 electronic products including a description of the processing and  
5 facility locations. The report must also include a list of  
6 subcontractors who further processed or recycled unwanted covered  
7 electronic products or electronic components, including facility  
8 locations.

9 (ii) An estimate of the weight of each type of material recovered  
10 as a result of the processing of recycled covered electronic  
11 products. Recovered materials catalogued under this subsection must  
12 include, at a minimum: Cathode ray tube glass, circuit boards,  
13 batteries, mercury-containing devices, plastics, and metals.

14 (iii) An estimate of the percentage, by weight, of all collected  
15 products that ultimately are reused, recycled, or end up as residual  
16 waste that is disposed of in another manner;

17 (d) Educational and promotional efforts that were undertaken;

18 (e) For program years 2009 through 2014, the results of sampling  
19 and sorting as required in RCW 70.95N.110, including a list of the  
20 brand names of covered electronic products by product type, the  
21 number of covered electronic products by product type, the weight of  
22 covered electronic products that are identified for each brand name  
23 or that lack a manufacturer's brand, and the total weight of the  
24 sample by product type;

25 (f) The list of manufacturers that are participating in the  
26 standard plan;

27 (g) A description of program revenues and costs, including: (i)  
28 The total cost of the program; and (ii) the average cost of the  
29 program per pound of covered electronic product collected;

30 (h) A detailed accounting of the following costs of the program:

31 (i) Program delivery, including: (A) Education and promotional  
32 efforts; (B) collection; (C) transportation; and (D) processing and  
33 labor; and (ii) program administration;

34 (i) A description of the methods used by the program to collect,  
35 transport, recycle, and process covered electronic products; (~~and~~)

36 (j) The contracted rates and allocated volumes for services by  
37 each transporter, collector, and processor, and the rates bid or  
38 offered by other service providers that unsuccessfully sought  
39 contracts with the authority and each authorized party; and

40 (k) Any other information deemed necessary by the department.



1       (3) The department shall review each report within ninety days of  
2 its submission and shall notify the authority or authorized party of  
3 any need for additional information or documentation, or any  
4 deficiency in its program.

5       (4) All reports submitted to the department must be available to  
6 the general public through the internet. Proprietary information  
7 submitted to the department under this chapter is exempt from public  
8 disclosure under RCW 42.56.270.

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