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HOUSE BILL 2488

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By Representatives Cooper, Campbell, Hunt, Romero, O'Brien, Chase, Sullivan, Ruderman, Dunshee, Wood and Dickerson

Read first time 01/15/2004. Referred to Committee on Fisheries, Ecology & Parks.

1 AN ACT Relating to electronic product management; and adding a new  
2 chapter to Title 70 RCW.

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply  
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Advisory committee" means the electronic product management  
7 and recycling advisory committee created in section 4 of this act.

8 (2) "Collective recovery plan" means an electronic waste recovery  
9 and recycling plan in section 2 of this act in which more than one  
10 manufacturer has agreed to participate.

11 (3) "Covered electronic product" means all computer monitors,  
12 computer central processing units, and televisions.

13 (4) "Department" means the department of ecology.

14 (5) "Director" means the director of the department of ecology.

15 (6) "Electronic waste" means a covered electronic product that has  
16 been discarded by its owner, or that has entered the solid waste  
17 stream.

18 (7) "End of life fee" means a fee charged to the last consumer to  
19 use a covered electronic product.

1 (8) "Front end financing" means costs recovered at the time of  
2 sale, either internalized into the final sale price, or specifically  
3 itemized and added to the final sale price.

4 (9) "Hazardous electronic material" means covered electronic  
5 products that contain concentrations of toxic materials exceeding the  
6 regulatory levels established in Title 40 C.F.R. Part 261.24 as it  
7 exists on the effective date of this act.

8 (10) "Manufacturer" means any person who, as of the effective date  
9 of this act: (a) Manufactures and sells covered electronic equipment  
10 under its own brand; (b) manufactures and sells covered electronic  
11 equipment without affixing a brand; or (c) resells covered electronic  
12 products produced by other suppliers under its own brand and label.  
13 The term "manufacturer" applies regardless of the selling technique  
14 used, including distance communication.

15 (11) "Plan" or "plans" means both electronic waste recovery and  
16 recycling plans and collective recovery plans required under section 2  
17 of this act that are filed by manufacturers.

18 (12) "Recycling" means the use of previously manufactured materials  
19 including metals, glass, and plastics, as feedstock in the  
20 manufacturing of new products. "Recycling" does not include energy  
21 recovery or energy generation by means of combusting electronic waste  
22 with or without other waste.

23 (13) "Reuse" means any operation by which electronic waste or  
24 components of electronic waste are used for the same purposes for which  
25 they were originally created, including the continued use of the  
26 equipment or components of the equipment that are returned to  
27 collection points, recyclers, or manufacturers.

28 NEW SECTION. **Sec. 2.** (1)(a) Except as provided in this section,  
29 by June 30, 2006, every manufacturer must develop, submit to the  
30 department, implement, and finance the implementation of a plan for the  
31 collection and recycling or reuse of twenty percent, by weight, of the  
32 covered electronic products sold by the manufacturer in Washington.

33 (b) By June 30, 2007, every manufacturer must increase the  
34 recycling and reuse of all covered electronic products ten percent, by  
35 weight, per year for five years, to achieve the following recycling  
36 goals:

37 (i) Thirty percent by June 30, 2007;

- 1 (ii) Forty percent by June 30, 2008;
- 2 (iii) Fifty percent by June 30, 2009;
- 3 (iv) Sixty percent by June 30, 2010; and
- 4 (v) Seventy percent by June 30, 2011.

5 (2) A manufacturer may satisfy the plan requirements of this  
6 chapter by agreeing to participate in a collective recovery plan with  
7 other manufacturers. The collective recovery plan must meet the same  
8 standards and requirements of the plans submitted by individual  
9 manufacturers.

10 (3) All plans required by this chapter must include, at a minimum:

11 (a) A description of the collection system, including the methods  
12 of convenient collection;

13 (b) A public education element to inform the public about the  
14 collection system, including details about meeting all consumer  
15 notification and labeling requirements;

16 (c) Details for implementing and financing the collection,  
17 recovery, recycling, and reuse of the covered electronic products sold  
18 by that manufacturer in the state;

19 (d) Details for the method of reimbursing local governments,  
20 nonprofit corporations, and retailers for the cost of collection and  
21 recycling of the manufacturers' covered electronic products;

22 (e) Documentation of the willingness of all necessary parties to  
23 implement the agreement, including the parties that will participate in  
24 the collection, treatment, recovery, reuse, and recycling of the  
25 covered electronic products;

26 (f) Assurances that the system, and all necessary parties, will  
27 operate in compliance with local, state, and federal waste management  
28 rules and regulations;

29 (g) Descriptions of the performance measures that will be used and  
30 reported by the manufacturer to demonstrate that the plan is meeting  
31 the required recovery and recycling rates for its own brand of covered  
32 electronic products at end of life, as well as other measures of the  
33 plan's effectiveness;

34 (h) Descriptions of additional or alternative actions that will be  
35 taken if performance measures are not met;

36 (i) Ideas for the creation of economic incentives for the design of  
37 environmentally friendly products; and

1 (j) Annual sales data on the number and type of covered electronic  
2 products sold by the manufacturer in Washington over the ten years  
3 preceding the filing of the plan for televisions, and five years  
4 preceding the filing of the plan for computer monitors and central  
5 processing units.

6 (4) The manufacturers are responsible for all costs associated with  
7 the development and implementation of the plans. These costs include  
8 cost for collection and public education and outreach. If the costs  
9 are passed on to consumers, it must be done so with front end  
10 financing, and not with an end of life fee.

11 (5) All plans required by this chapter must be submitted to the  
12 department by September 30, 2005, and reviewed by the department by  
13 December 31, 2005, with implementation by manufacturers beginning by  
14 June 30, 2006.

15 NEW SECTION. **Sec. 3.** (1) All manufacturers must submit an initial  
16 report to the department by May 1, 2007, and each May 1st thereafter.  
17 The reports must contain, at a minimum:

18 (a) The quantities of covered electronic products sold by that  
19 manufacturer in the state during the previous year;

20 (b) The weight of the electronic waste recovered in the previous  
21 year;

22 (c) The weight of recovered electronic waste that is reused;

23 (d) The weight of recovered electronic waste that is recycled;

24 (e) Progress reports towards making more environmentally friendly  
25 products;

26 (f) The results of any performance measures included in the plan;

27 (g) Identification of the end markets for collected electronic  
28 waste;

29 (h) Educational and promotional efforts that will be undertaken;  
30 and

31 (i) Any other information deemed necessary by the department.

32 (2) The department must review all reports and provide a notice of  
33 adequate compliance or deficiency to manufacturers by November 1st of  
34 each year.

35 (3) All reports submitted to the department must be available to  
36 the general public through the internet. However, the manufacturer  
37 submitting the report may indicate which portions, if any, it considers

1 proprietary and, if the department concurs that the information meets  
2 state legal requirements for confidentiality, those sections of the  
3 report shall not be made public.

4 NEW SECTION. **Sec. 4.** (1) The electronic product management and  
5 recycling advisory committee is created within the department of  
6 community, trade, and economic development. Members shall be appointed  
7 by and serve at the pleasure of the director of the department of  
8 community, trade, and economic development.

9 (2) Advisory committee membership shall include, at least, persons  
10 who represent each of the following: Covered electronic product  
11 manufacturers, covered electronic product retailers, waste haulers,  
12 cities, counties, recyclers, labor organizations, environmental  
13 organizations, and public interest organizations.

14 (3) The advisory committee is responsible for making grants and  
15 loans for electronic product management activities. Eligible  
16 electronic product management activities include but are not limited  
17 to:

18 (a) Small business development to promote electronic product  
19 management;

20 (b) Research and development to reduce the use of hazardous  
21 electronic materials and the generation of hazardous waste; and

22 (c) Collection, recycling, and reuse of electronic products.

23 (4) Members of the advisory committee shall serve four-year  
24 renewable terms.

25 (5) Each member of the advisory committee shall serve without  
26 compensation but may be reimbursed for travel expenses as authorized in  
27 RCW 43.03.050 and 43.03.060.

28 (6) Staff to the advisory committee must be provided by the  
29 department of community, trade, and economic development.

30 NEW SECTION. **Sec. 5.** There is levied a five-dollar fee on the  
31 retail sale of new covered electronic products for a period of five  
32 years, beginning January 1, 2005. The fee imposed in this section  
33 shall be paid by the buyer to the seller, and each seller shall collect  
34 from the buyer the full amount of the fee. The fee collected from the  
35 buyer by the seller less the ten percent amount retained by the seller  
36 as provided in section 6 of this act shall be paid to the department of

1 revenue in accordance with RCW 82.32.045. All other applicable  
2 provisions of chapter 82.32 RCW have full force and application with  
3 respect to the fee imposed under this section. The department of  
4 revenue shall administer this section.

5 NEW SECTION. **Sec. 6.** The electronic product management account is  
6 created in the custody of the state treasurer. Except for ten percent  
7 retained by the seller for administrative costs, all receipts from the  
8 sale of covered electronic products in section 5 of this act must be  
9 deposited into the account. Expenditures from the account may be used  
10 only for electronic product management grants recommended by the  
11 advisory committee created in section 4 of this act. Only the director  
12 of the department of community, trade, and economic development or the  
13 director's designee may authorize expenditures from the account. The  
14 account is subject to allotment procedures under chapter 43.88 RCW, but  
15 an appropriation is not required for expenditures.

16 NEW SECTION. **Sec. 7.** By June 30, 2006, all covered electronic  
17 products sold in Washington must bear a clear label, or be packaged  
18 with informational materials, provided by the manufacturer, that  
19 provides the consumer or end user with information relating to the  
20 following:

21 (1) The hazardous materials contained in the covered electronic  
22 product and its parts and subparts;

23 (2) Any restrictions relating to the disposal of covered electronic  
24 products in landfills, incinerators, and other means that are not a  
25 part of the manufacturer's approved plan; and

26 (3) A toll-free telephone number or internet site where consumers  
27 can obtain information and instructions concerning the safe disposition  
28 of the covered electronic product through the manufacturer's plan.

29 NEW SECTION. **Sec. 8.** (1) Except as provided in subsection (2) of  
30 this section, any person who intends to export electronic waste to a  
31 foreign destination shall comply with all of the following at least  
32 sixty days before export:

33 (a) Notify the department of the destination, contents, and volume  
34 of the electronic waste to be exported;

1 (b) Demonstrate that the importation of electronic waste is not  
2 prohibited by any applicable law or regulation of the country of  
3 destination and that any import is conducted in accordance with all  
4 applicable laws. As part of this demonstration, required import and  
5 operating licenses shall be forwarded to the department;

6 (c) Demonstrate that the exportation of electronic waste is  
7 conducted only in accordance with applicable international law;

8 (d) Demonstrate that the management of the exported electronic  
9 waste will be handled within the country of destination in accordance  
10 with applicable rules, standards, and requirements adopted by the  
11 organization for economic cooperation and development for the  
12 environmentally sound management of electronic waste as established on  
13 the effective date of this act; and

14 (e) Demonstrate that the electronic waste is being exported for the  
15 purpose of reuse or recycling.

16 (2) Subsection (1) of this section does not apply to a component  
17 part of a covered electronic product that is exported to an authorized  
18 collector or recycler and that is reused or recycled into a new  
19 electronic component.

20 NEW SECTION. **Sec. 9.** The department may adopt rules to implement  
21 this chapter.

22 NEW SECTION. **Sec. 10.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act  
27 constitute a new chapter in Title 70 RCW.

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