

FINAL BILL REPORT

ESSB 6428

PARTIAL VETO

C 183 L 06

Synopsis as Enacted

Brief Description: Providing for electronic product recycling.

Sponsors: Senate Committee on Water, Energy & Environment (originally sponsored by Senators Pridemore, Esser, Poulsen, Morton, Schmidt, Fairley, Benson, Berkey, Regala, Kohl-Welles, Weinstein, Prentice, Kastama, Johnson, Thibaudeau, Kline, Eide, Shin, Rockefeller, Jacobsen, Haugen, Doumit, Oke, Franklin, Swecker, Carrell, Rasmussen, Spanel, Fraser, McAuliffe, Keiser, Brown, Finkbeiner, Brandland and Benton).

Senate Committee on Water, Energy & Environment

Senate Committee on Ways & Means

House Committee on Natural Resources, Ecology & Parks

House Committee on Appropriations

Background: The Department of Ecology (DOE) estimates that between 2003 and 2010 over 4.5 million computer processing units, 3.5 million cathode ray tube monitors, and 1.5 million flat panel monitors will become obsolete in Washington. When discarded, these items could cause significant environmental harm.

In 2004, the Washington Legislature directed DOE to research the collection, recycling, and reuse of computer monitors, personal computers, and televisions. In a December 2005 report, DOE recommended that a collection and processing system be implemented and financed by manufacturers, based on product market share.

Summary: A manufacturer-implemented and - financed system for collecting, transporting, and recycling unwanted "covered electronic products" (CEPs) is established. CEPs include most computer monitors, desktop computers, laptop or portable computers, and televisions. Households, charities, school districts, and small businesses and governments may discard CEPs free of charge at collection centers throughout the state. Manufacturers may not sell CEPs in Washington unless they participate in the system, which must be operational by 2009.

Labeling. Beginning January 1, 2007, no person may sell or offer for sale an electronic product in Washington unless the manufacturer's brand is permanently affixed and readily visible. In-state retailers possessing unlabeled products on that date may exhaust their stock through sales.

Registration. CEP manufacturers, collectors, transporters, and processors must annually register with and provide information to DOE. Retail sellers may register and be held accountable as manufacturers.

Collection and Recycling Plans. Manufacturers must participate in plans to implement and finance handling of their "equivalent share" of CEPs, as determined by DOE. A plan using nonprofit organizations for CEP collection will be given a 5 percent credit applied to its collective equivalent share for pounds received from those organizations.

A manufacturer must participate in the standard plan developed by the Washington Materials Management and Financing Authority (Authority) unless it obtains DOE approval to participate in an independent plan. An independent plan may be submitted to DOE by a manufacturer or group of manufacturers representing at least a 5 percent share of CEPs; participants may not be new entrants or white box (unbranded product) manufacturers.

Plans must provide for convenient urban and rural collection services, with at least one collection site or alternate service for municipalities with populations greater than 10,000. Plans may limit the number of CEPs accepted per customer per day.

Plans must sample CEPs entering their programs and note information needed to calculate equivalent share. If costs are passed on to consumers, manufacturers may not charge a fee when an unwanted product is delivered or collected for recycling. Collectors providing premium or curbside services may charge a fee for their additional collection costs.

All plans must be submitted to DOE for review and approval, be operational by 2009, and updated at least every five years.

Washington Materials Management and Financing Authority. The Authority, established as a public entity, must devise and implement a standard plan responsible for handling the collective equivalent shares of its participating manufacturers. The Authority is governed by a board of directors (board) appointed by the Director of DOE, comprised of 11 representatives of participating manufacturers. The Directors of DOE, the Department of Community, Trade and Economic Development, and the State Treasurer serve as ex-officio members. The board must select a chair, create bylaws, and adopt a general operating plan, conducting at least one public hearing on that plan.

Participating manufacturers must pay the Authority's administrative and operational costs based on an equitable method reviewed and approved by DOE. If a manufacturer has not met its financial obligations, the Authority will notify DOE that the manufacturer is no longer participating in the standard plan.

A participating manufacturer may appeal an assessment of charges or apportionment of costs to the Director of DOE, whose decision can be reviewed by an arbitration panel, with subsequent limited Superior Court review.

Processing Standards and International Export Limitations. Plans must ensure that processors document compliance with environmental performance standards, nonrecycled residual disposal guidelines, and international export limitations. DOE may audit processors. Plans may not use prison labor for processing.

International export of electronic waste to certain nations by processors is prohibited, under certain circumstances, if the waste violates federal hazardous waste standards. Products exported into certain nations for reuse must be tested and labeled as fully functional or needing only minor repairs.

Annual Reporting. Plans must annually report to DOE regarding total weight of CEPs recycled by county, collection services by county, weight of CEPs processed by each processor, compliance with processing standards, educational and promotional efforts, sampling results, and other information deemed necessary by DOE. Nonprofit organizations collecting CEPs must report the weight of CEPs they collected during the previous year. Financial and proprietary information is exempt from public records disclosure requirements.

Outreach. Plans must inform consumers about where and how to recycle their CEPs. DOE and local governments must promote recycling. Retailers must provide pertinent information.

State Purchasing. The Department of General Administration (GA) must adopt purchasing preferences for electronic products meeting environmental standards for reducing or eliminating hazardous materials. GA must ensure that surplus products are managed only by registered transporters and processors and directed to legal secondary materials markets.

Fees. DOE must establish registration and plan review fees based on a sliding scale representing annual sales of CEPs in Washington.

Penalties. DOE must send a written warning to manufacturers not participating in an approved plan. After the initial warning, DOE will assess a noncomplying manufacturer a penalty of up to \$10,000 per violation.

If the Authority or an independent plan fails to implement an approved plan, DOE will assess a penalty of up to \$5,000 for the first violation and up to \$10,000 for subsequent violations.

Persons not complying with manufacturer registration, education and outreach, reporting, labeling, retailer responsibility, collector and transporter registration, or processing requirements will receive a written warning. Noncomplying persons will be assessed a penalty of up to \$1,000 for the first violation and up to \$2,000 for subsequent violations.

Electronic Products Recycling Account. The electronic products recycling account is created to accept manufacturer fees, payments from plans not handling their collective equivalent share, and penalties. Moneys may be used solely by DOE to fulfill agency responsibilities under the act and for expenditures to plans exceeding their collective equivalent share.

Preemption. The act is void if federal law establishes a national electronic waste collection and recycling system that substantially meets the scope and intent of the act.

Reports to Legislature. DOE must report to the Legislature by April 1, 2010 and December 31, 2012, concerning numerous elements of the act.

Votes on Final Passage:

Senate	41	8	
House	69	29	(House amended)
Senate	38	11	(Senate concurred)

Effective: July 1, 2006

Partial Veto Summary: The Governor vetoed restrictions regarding international export of electronic waste.