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**SUBSTITUTE HOUSE BILL 1824**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House Environment (originally sponsored by Representatives Peterson, Lovick, Kagi, Ortiz-Self, Tarleton, Robinson, Stanford, Ormsby, and Doglio)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to electronic product recycling; amending RCW  
2 70.95N.010, 70.95N.280, 70.95N.250, 70.95N.060, 70.95N.260, and  
3 70.105.080; and 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 and that the department must exercise  
18 strong oversight of the performance of the authority.

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

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

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

9 (3) Membership in the authority is comprised of registered  
10 participating manufacturers. Any registered manufacturer who does not  
11 qualify or is not approved to submit an independent plan, or whose  
12 independent plan has not been approved by the department, is a member  
13 of the authority. All new entrants and white box manufacturers are  
14 also members of the authority.

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

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

22 (6) The authority shall accept into the standard program covered  
23 electronic products from any registered collector who meets the  
24 requirements of this chapter. The authority shall compensate  
25 registered collectors for the reasonable costs associated with  
26 collection, but is not required to compensate nor restricted from  
27 compensating the additional collection costs resulting from the  
28 additional convenience offered to customers through premium and  
29 curbside services.

30 (7) The authority shall accept and utilize in the standard  
31 program any registered processor meeting the requirements of this  
32 chapter and any requirements described in the authority's operating  
33 plan or through contractual arrangements. Priority must be given to  
34 processors operating in the state of Washington. Processors utilized  
35 by the standard plan shall provide documentation to the authority at  
36 least annually regarding how they are meeting the requirements in RCW  
37 70.95N.250 (~~and section 26 of this act~~), including enough detail to  
38 allow the standard plan to meet its reporting requirements in RCW  
39 70.95N.140(2)(c) (~~and (d)~~), and must submit to audits conducted by  
40 or for the authority. The authority shall compensate such processors

1 for the reasonable costs, as determined by the authority, associated  
2 with processing unwanted electronic products. Such processors must  
3 demonstrate that the unwanted electronic products have been received  
4 from registered collectors or transporters, and provide other  
5 documentation as may be required by the authority.

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

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

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

14 (1) The authority and each authorized party shall ensure that  
15 each processor used directly by the authority or the authorized party  
16 to fulfill the requirements of their respective standard plan or  
17 independent plan has provided the authority or the authorized party a  
18 written statement that the processor will comply with the  
19 requirements of this section (~~and section 26 of this act~~).

20 (2)(a) The department shall establish by rule performance  
21 standards for environmentally sound management for processors  
22 directly used to fulfill the requirements of an independent plan or  
23 the standard plan. Performance standards may include financial  
24 assurance to ensure proper closure of facilities consistent with  
25 environmental standards.

26 (b) A transporter, collector, or processor may not be utilized in  
27 the plan as a preferred participant for a minimum period of three  
28 years following a violation if the transporter, collector, or  
29 processor:

30 (i) Is determined by the department to have willfully violated,  
31 after July 1, 2017, these performance standards or other requirements  
32 of this chapter; and

33 (ii) Has ever previously been penalized by the department under  
34 RCW 70.95N.260 or chapter 70.105 RCW for activities associated with  
35 covered electronic products.

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

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

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

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

8 (1) All initial independent plans and the initial standard plan  
9 required under RCW 70.95N.050 must be submitted to the department by  
10 February 1, 2008. The department shall review each independent plan  
11 and the standard plan.

12 (2) The authority submitting the standard plan and each  
13 authorized party submitting an independent plan to the department  
14 must pay a fee to the department to cover the costs of administering  
15 and implementing this chapter. The department shall set the fees as  
16 described under RCW 70.95N.230.

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

20 (4) Within ninety days after receipt of a plan, the department  
21 shall determine whether the plan complies with this chapter. If the  
22 plan is approved, the department shall send a letter of approval. If  
23 a plan is rejected, the department shall provide the reasons for  
24 rejecting the plan to the authority or authorized party. The  
25 authority or authorized party must submit a new plan within sixty  
26 days after receipt of the letter of disapproval.

27 (5) An independent plan and the standard plan must contain the  
28 following elements:

29 (a) Contact information for the authority or authorized party and  
30 a comprehensive list of all manufacturers participating in the plan  
31 and their contact information;

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

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

37 (ii) Fairly compensate collectors for providing collection  
38 services; and

1 (iii) Fairly compensate processors for providing processing  
2 services;

3 (c) The method or methods for the reasonably convenient  
4 collection of all product types of covered electronic products in  
5 rural and urban areas throughout the state, including how the plan  
6 will provide for collection services in each county of the state and  
7 for a minimum of one collection site or alternate collection service  
8 for each city or town with a population greater than ten thousand. A  
9 collection site for a county may be the same as a collection site for  
10 a city or town in the county;

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

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

17 (f) Documentation of audits of each processor used in the plan  
18 and compliance with processing standards established under RCW  
19 70.95N.250 (~~and section 26 of this act~~);

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

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

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

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

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

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

1       (8) The department must periodically review the standard plan and  
2 all revisions to the plan to ensure that the authority is consistent  
3 in its allocation of product volume among contracted transporters,  
4 collectors, and processors, that the authority engages in competitive  
5 rate and volume negotiations, and that the authority is consistent in  
6 its administration of the standard plan.

7       **Sec. 5.** RCW 70.95N.140 and 2013 c 305 s 6 and 2013 c 292 s 1 are  
8 each reenacted and amended to read as follows:

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

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

13       (a) The total weight in pounds of each type of covered electronic  
14 products collected and recycled, by county, during the preceding  
15 program year including documentation verifying collection and  
16 processing of that material. The total weight in pounds includes  
17 orphan products. The report must also indicate and document the  
18 weight in pounds received from each nonprofit charitable organization  
19 primarily engaged in the business of reuse and resale used by the  
20 plan. The report must document the weight in pounds that were  
21 received in large quantities from small businesses, small  
22 governments, charities and school districts as described in RCW  
23 70.95N.090(5);

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

28       (c)(i) A list of processors used, the weight of covered  
29 electronic products processed by each direct processor, and a  
30 description of the processes and methods used to recycle the covered  
31 electronic products including a description of the processing and  
32 facility locations. The report must also include a list of  
33 subcontractors who further processed or recycled unwanted covered  
34 electronic products or electronic components, including facility  
35 locations.

36       (ii) An estimate of the weight of each type of material recovered  
37 as a result of the processing of recycled covered electronic  
38 products. Recovered materials catalogued under this subsection must

1 include, at a minimum: Cathode ray tube glass, circuit boards,  
2 batteries, mercury-containing devices, plastics, and metals.

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

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

7 (e) For program years 2009 through 2014, the results of sampling  
8 and sorting as required in RCW 70.95N.110, including a list of the  
9 brand names of covered electronic products by product type, the  
10 number of covered electronic products by product type, the weight of  
11 covered electronic products that are identified for each brand name  
12 or that lack a manufacturer's brand, and the total weight of the  
13 sample by product type;

14 (f) The list of manufacturers that are participating in the  
15 standard plan;

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

19 (h) A detailed accounting of the following costs of the program:  
20 (i) Program delivery, including: (A) Education and promotional  
21 efforts; (B) collection; (C) transportation; and (D) processing and  
22 labor; and (ii) program administration;

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

25 (j) The contracted rates and allocated volumes for services by  
26 each transporter, collector, and processor; and

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

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

32 (4) All reports submitted to the department must be available to  
33 the general public through the internet. Proprietary information  
34 submitted to the department under this chapter is exempt from public  
35 disclosure under RCW 42.56.270.

36 **Sec. 6.** RCW 70.95N.260 and 2006 c 183 s 27 are each amended to  
37 read as follows:

38 (1) No manufacturer may sell or offer for sale a covered  
39 electronic product in or into the state unless the manufacturer of

1 the covered electronic product is participating in an approved plan.  
2 The department shall send a written warning to a manufacturer that  
3 does not have an approved plan or is not participating in an approved  
4 plan as required under RCW 70.95N.050. The written warning must  
5 inform the manufacturer that it must participate in an approved plan  
6 within thirty days of the notice. Any violation after the initial  
7 written warning shall be assessed a penalty of up to ten thousand  
8 dollars for each violation.

9 (2) If the authority or any authorized party fails to implement  
10 their approved plan, the department must assess a penalty of up to  
11 five thousand dollars for the first violation along with notification  
12 that the authority or authorized party must implement its plan within  
13 thirty days of the violation. After thirty days, the authority or any  
14 authorized party failing to implement their approved plan must be  
15 assessed a penalty of up to ten thousand dollars for the second and  
16 each subsequent violation.

17 (3) Any person that does not comply with manufacturer  
18 registration requirements under RCW 70.95N.040, education and  
19 outreach requirements under RCW 70.95N.120, reporting requirements  
20 under RCW 70.95N.140, labeling requirements under RCW 70.95N.160,  
21 retailer responsibility requirements under RCW 70.95N.170, collector  
22 or transporter registration requirements under RCW 70.95N.240, or  
23 requirements under RCW 70.95N.250 (~~and section 26 of this act~~),  
24 must first receive a written warning including a copy of the  
25 requirements under this chapter and thirty days to correct the  
26 violation. After thirty days, a person must be assessed a penalty of  
27 up to one thousand dollars for the first violation and up to two  
28 thousand dollars for the second and each subsequent violation.

29 (4) All penalties levied under this section and RCW 70.105.080(3)  
30 must be deposited into the electronic products recycling account  
31 created under RCW 70.95N.130.

32 (5) The department shall enforce this section.

33 **Sec. 7.** RCW 70.105.080 and 1995 c 403 s 631 are each amended to  
34 read as follows:

35 (1) Except as provided in RCW 43.05.060 through 43.05.080 and  
36 43.05.150, every person who fails to comply with any provision of  
37 this chapter or of the rules adopted thereunder shall be subjected to  
38 a penalty in an amount of not more than ten thousand dollars per day  
39 for every such violation. Each and every such violation shall be a



1 separate and distinct offense. In case of continuing violation, every  
2 day's continuance shall be a separate and distinct violation. Every  
3 person who, through an act of commission or omission, procures, aids,  
4 or abets in the violation shall be considered to have violated the  
5 provisions of this section and shall be subject to the penalty herein  
6 provided.

7 (2) The penalty provided for in this section shall be imposed  
8 pursuant to the procedures in RCW 43.21B.300.

9 (3) Penalties issued under this chapter to a processor for  
10 activities involving covered electronic products under the  
11 requirements of chapter 70.95N RCW must be deposited consistent with  
12 RCW 70.95N.260(4). For purposes of this subsection, "processor" and  
13 "covered electronic product" have the same meaning as defined in RCW  
14 70.95N.020.

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