

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

—
H.P. 725 - L.D. 981

**An Act To Increase Recycling Jobs in Maine and Lower Costs for Maine
Businesses Concerning Recycled Electronics**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation increases the functions electronics demanufacturing facilities may undertake, which will enable such facilities to expand and it is important that the legislation take effect as soon as possible due to Maine's economy and the need for job expansion; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1319-R, sub-§1, ¶D is enacted to read:

D. If the commissioner determines based on documentation received from an electronics demanufacturing facility licensed by the department that the facility meets the provisions of this paragraph, the commissioner may allow the facility to undertake the controlled breakage of cathode ray tubes. If the commissioner does not approve or deny the facility's request to undertake controlled breakage of cathode ray tubes within 30 calendar days of receiving the documentation, the facility may undertake controlled breakage of cathode ray tubes in accordance with the provisions of this paragraph.

(1) The facility shall ensure that no crushing or treatment of universal waste or hazardous subcomponents occurs other than dismantling except that controlled breakage of cathode ray tubes may be performed in a manner protective of public health and safety and the environment. Controlled breakage of cathode ray tubes may occur only in a dedicated space with ventilation equipment that prevents the release of fugitive emissions to adjacent areas. Lead and cadmium concentrations immediately outside the dedicated space may not significantly exceed background levels of lead and cadmium concentrations or current ambient air

quality standards for the State. The facility shall determine background levels through monitoring. The facility shall meet the conditions listed in 40 Code of Federal Regulations, Section 261.39 (2010). As used in this subparagraph, "fugitive emissions" has the same meaning as in section 582, subsection 7-C.

(2) The facility shall obtain certification from an environmental and safety program approved by the department and submit proof of certification to the department, except that if a facility has not completed certification, controlled breakage of cathode ray tubes may begin prior to certification if:

(a) The facility provides information to the department on its process of achieving certification, including a detailed gap analysis; and

(b) The controlled breakage is monitored by an environmental professional to ensure environmental and safety standards are met.

(3) The facility shall develop a written operating manual specifying how to safely break cathode ray tubes. The operating manual must be available to all employees at the facility and include:

(a) Operating and maintenance procedures developed in accordance with any related manufacturer's specifications;

(b) Procedures for testing and monitoring of equipment;

(c) Procedures to address emergency situations, including, but not limited to, procedures to address lead and cadmium hazards, waste handling and equipment failure;

(d) Procedures to assess whether surrounding areas will be negatively affected either by physical proximity to or air exchange with a heating, ventilation and air conditioning system;

(e) Procedures for proper waste management practices; and

(f) Procedures for employee training to ensure employees have been trained in operation and maintenance of equipment, including, but not limited to, engineering controls to mitigate hazardous waste releases and personal protective equipment use.

The department shall adopt rules to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 38 MRSA §1610, sub-§2, ¶B, as amended by PL 2007, c. 292, §40, is further amended to read:

B. "Consolidation facility" means a facility where electronic wastes are consolidated and temporarily stored while awaiting shipment of at least a 40-foot trailer full of covered electronic devices to a recycling, treatment or disposal facility. "Consolidation facility" includes a transport vehicle owned or leased by a consolidator and used to collect covered electronic devices at ~~municipal~~ collection sites in this State at a cost no greater than the per pound transportation rate for a full 40-foot trailer as approved by the department for each consolidator pursuant to the

rules governing reasonable operational costs adopted under subsection 5, paragraph D, subparagraph ~~4~~ (1).

Sec. 3. 38 MRSA §1610, sub-§2, ¶B-2 is enacted to read:

B-2. "Covered entity" means a household in this State, a business or nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) that employs 100 or fewer individuals, a primary school or a secondary school.

Sec. 4. 38 MRSA §1610, sub-§2, ¶F, as reallocated by RR 2003, c. 2, §119, is repealed.

Sec. 5. 38 MRSA §1610, sub-§5, ¶A, as amended by PL 2009, c. 397, §7, is further amended to read:

A. Each municipality that chooses to participate in the state collection and recycling system shall ensure that computer monitors, televisions, desktop printers and video game consoles generated as waste from ~~households~~ covered entities within that municipality's jurisdiction are delivered to a consolidation facility in this State. A municipality may meet this requirement through collection at and transportation from a local or regional solid waste transfer station or recycling facility, by contracting with a disposal facility to accept waste directly from the municipality's residents or through curbside pickup or other convenient collection and transportation system.

Sec. 6. 38 MRSA §1610, sub-§5, ¶A-1 is enacted to read:

A-1. A covered entity may deliver no more than 7 covered electronic devices at one time to a municipal collection site or consolidator collection event, unless the municipal collection site or consolidator is willing to accept additional covered electronic devices.

Sec. 7. 38 MRSA §1610, sub-§5, ¶B, as amended by PL 2009, c. 397, §7, is further amended to read:

B. A consolidator is subject to the requirements of this paragraph.

(1) A consolidator shall identify the manufacturer of each waste computer monitor and desktop printer delivered to a consolidation facility and identified as generated by a ~~household~~ covered entity in this State and shall maintain an accounting of the number of waste ~~household~~ computer monitors and desktop printers by manufacturer. By March 1st each year, a consolidator shall provide this accounting by manufacturer to the department.

(1-A) A consolidator shall maintain a written log of the total weight of televisions and video game consoles delivered each month to the consolidator and identified as generated by a ~~household~~ covered entity in the State. By March 1st each year, a consolidator shall provide this accounting to the department.

(2) A consolidator may perform the manufacturer identification required by subparagraph (1) at the consolidation facility or may contract for this

identification and accounting service with the recycling and dismantling facility to which the covered electronic devices are shipped.

(3) A consolidator shall work cooperatively with manufacturers to ensure implementation of a practical and feasible financing system with costs calculated for televisions on a basis proportional to the manufacturer's national market share of televisions in the State multiplied by the total pounds recycled and with costs calculated for video game consoles on a basis proportional to the manufacturer's national market share of video game consoles in the State multiplied by the total pounds recycled. At a minimum, a consolidator shall invoice the manufacturers for the handling, transportation and recycling costs for which they are responsible under the provisions of this subsection.

(4) A consolidator shall transport computer monitors, televisions, desktop printers and video game consoles to a recycling and dismantling facility that provides a sworn certification pursuant to paragraph C. A consolidator shall maintain for a minimum of 3 years a copy of the sworn certification from each recycling and dismantling facility that receives covered electronic devices from the consolidator and shall provide the department with a copy of these records within 24 hours of request by the department.

Sec. 8. 38 MRSA §1610, sub-§5, ¶D, as amended by PL 2009, c. 397, §7, is further amended to read:

D. Computer monitor, television, desktop printer and video game console manufacturers are subject to the requirements of this paragraph.

(1) Each computer monitor manufacturer and each desktop printer manufacturer is individually responsible for handling and recycling all computer monitors and desktop printers that are produced by that manufacturer or by any business for which the manufacturer has assumed legal responsibility, that are generated as waste by ~~households~~ covered entities in this State and that are received at consolidation facilities in this State. In addition, each computer manufacturer is responsible for a pro rata share of orphan waste computer monitors and each desktop printer manufacturer is responsible for a pro rata share of orphan waste desktop printers generated as waste by ~~households~~ covered entities in this State and received at consolidation facilities. The manufacturers shall pay the reasonable operational costs of the consolidator attributable to the handling of all computer monitors, televisions, desktop printers and video game consoles ~~generated as waste by households received at consolidation facilities~~ in this State, the transportation costs from the consolidation facility to a licensed recycling and dismantling facility and the costs of recycling. "Reasonable operational costs" includes the costs associated with ensuring that consolidation facilities are geographically located to conveniently serve all areas of the State as determined by the department. The recycling of televisions must be funded by allocating the cost of the program among the manufacturers selling televisions in the State on a basis proportional to the manufacturer's national market share of televisions. The department shall annually determine each television manufacturer's recycling share based on readily available national market share data. If the department determines that a television manufacturer's market share is less than 1/10 of 1%,

the department may determine that market share de minimus. A television manufacturer whose market share is determined de minimus by the department is not responsible for payment of a pro rata share of televisions for the corresponding billing year. The total market shares determined de minimus by the department must be proportionally allocated to and paid for by the television manufacturers that have 1/10 of 1% or more of the market. The recycling of video game consoles must be funded by allocating the cost of the program among the manufacturers selling video game consoles in the State on a basis proportional to the manufacturer's national market share of video game consoles. The department shall annually determine each video game console manufacturer's recycling share based on readily available national market share data. If the department determines that a video game console manufacturer's market share is less than 1/10 of 1%, the department may determine that market share de minimus. A video game console manufacturer whose market share is determined de minimus by the department is not responsible for payment of a pro rata share of video game consoles for the corresponding billing year. The total market shares determined de minimus by the department must be proportionally allocated to and paid for by the video game console manufacturers that have 1/10 of 1% or more of the market.

(2) Each computer monitor manufacturer, television manufacturer, desktop printer manufacturer and video game console manufacturer shall work cooperatively with consolidators to ensure implementation of a practical and feasible financing system. Within 90 days of receipt of an invoice, a manufacturer shall reimburse a consolidator for allowable costs incurred by that consolidator.

Sec. 9. 38 MRSA §1610, sub-§6-A, as enacted by PL 2009, c. 397, §9 and affected by §14, is amended to read:

6-A. Manufacturer registration. By Prior to offering a covered electronic device and by July 1st annually, a manufacturer that offers or has offered a computer monitor, television, or desktop printer, or offers or has offered within the preceding calendar year a television or video game console, for sale in or into this State shall submit a registration to the department and pay to the department an annual registration fee of \$3,000. The annual registration must include:

- A. The name, contact and billing information of the manufacturer;
- B. The manufacturer's brand name or names and the type of televisions, video game consoles, computer monitors and desktop printers on which each brand is used, including:
 - (1) All brands sold in the State in the past; and
 - (2) All brands currently being sold in the State;
- C. When a word or phrase is used as the label, the manufacturer must include that word or phrase and a general description of the ways in which it may appear on the manufacturer's electronic products;

D. When a logo, mark or image is used as a label, the manufacturer must include a graphic representation of the logo, mark or image and a general description of the logo, mark or image as it appears on the manufacturer's electronic products;

E. The method or methods of sale used in the State;

F. Annual national sales data on the weight, number and type of computer monitors, televisions, desktop printers and video game consoles sold by the manufacturer in this State over the 5 years preceding the filing of the plan. The department may keep information submitted pursuant to this paragraph confidential as provided under section 1310-B; ~~and~~

G. The manufacturer's consolidator handling option for the next calendar year, as selected in accordance with rules adopted pursuant to subsection 10-; and

H. A registration fee paid by a manufacturer as follows:

(1) Seven hundred and fifty dollars for manufacturers with less than 0.1% national market share as determined by the department based on the most recent readily available national market share data; and

(2) Three thousand dollars for all other manufacturers, except that computer monitor and desktop printer manufacturers that have not marketed any covered electronic device in the current calendar year and have had less than 50 units managed by approved consolidators in the preceding 3 years are exempted from paying the fee.

A manufacturer's annual registration filed subsequent to its initial registration must clearly delineate any changes in information from the previous year's registration. Whenever there is any change to the information on the manufacturer's registration, the manufacturer shall submit an updated form within 14 days of the change. Registration fees collected by the department pursuant to this subsection must be deposited in the Maine Environmental Protection Fund established in section 351.

Sec. 10. 38 MRSA §1610, sub-§8, as reallocated by RR 2003, c. 2, §119, is amended to read:

8. Reports to Legislature. The department shall submit a report on the recycling of electronic waste in the State to the joint standing committee of the Legislature having jurisdiction over natural resources matters ~~by January 15, 2008 and every 2 years thereafter until January 15, 2014~~ as part of each product stewardship report submitted in accordance with section 1772. The report ~~must~~ may include an evaluation of the recycling rates in the State for covered electronic devices, ~~a discussion of compliance and enforcement related to the requirements of this section~~ and recommendations for any changes to the system of collection and recycling of electronic devices in the State.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor