

MAINE STATE LEGISLATURE

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L.D. 1892

DATE: 4-5-04

(Filing No. H-861)

REPORT A
NATURAL RESOURCES

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12 the House.

14 STATE OF MAINE
16 HOUSE OF REPRESENTATIVES
18 121ST LEGISLATURE
20 SECOND SPECIAL SESSION

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20 COMMITTEE AMENDMENT "A" to H.P. 1402, L.D. 1892, Bill, "An
22 Act To Protect Public Health and the Environment by Providing for
a System of Shared Responsibility for the Safe Collection and
Recycling of Electronic Waste"

24

26 Amend the bill by striking out everything after the enacting
clause and before the summary and inserting in its place the
following:

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'Sec. 1. 38 MRSA §1310-B, sub-§2, as amended by PL 2001, c.
373, §1, is further amended to read:

30

32 2. Hazardous waste information and information on
34 mercury-added products and electronic devices. Information
relating to hazardous waste submitted to the department under
this subchapter ~~or~~, information relating to mercury-added
36 products submitted to the department under chapter 16-B or
information relating to electronic devices submitted to the
department under section 1609, subsection 6, paragraph B may be
38 designated by the person submitting it as being only for the
confidential use of the department, its agents and employees, the
40 Department of Agriculture, Food and Rural Resources and the
Department of Human Services and their agents and employees,
42 other agencies of State Government, as authorized by the
Governor, employees of the United States Environmental Protection
44 Agency and the Attorney General and employees of the municipality
in which the hazardous waste is located. The designation must be
46 clearly indicated on each page or other portion of information.
The commissioner shall establish procedures to insure that
48 information so designated is segregated from public records of
the department. The department's public records must include the
50 indication that information so designated has been submitted to
the department, giving the name of the person submitting the
52 information and the general nature of the information. Upon a

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2 request for information, the scope of which includes information
3 so designated, the commissioner shall notify the submittor.
4 Within 15 days after receipt of the notice, the submittor shall
5 demonstrate to the satisfaction of the department that the
6 designated information should not be disclosed because the
7 information is a trade secret, production, commercial or
8 financial information, the disclosure of which would impair the
9 competitive position of the submittor and would make available
10 information not otherwise publicly available. Unless such a
11 demonstration is made, the information must be disclosed and
12 becomes a public record. The department may grant or deny
13 disclosure for the whole or any part of the designated
14 information requested and within 15 days shall give written
15 notice of the decision to the submittor and the person requesting
16 the designated information. A person aggrieved by a decision of
17 the department may appeal only to the Superior Court in
18 accordance with the provisions of section 346. All information
19 provided by the department to the municipality under this
20 subsection must be confidential and not a public record under
21 Title 1, chapter 13. In the event a request for such information
22 is submitted to the municipality, the municipality shall submit
23 that request to the commissioner to be processed by the
24 department as provided in this subsection.

25 **Sec. 2. 38 MRSA §1609** is enacted to read:

26 **§1609. Electronic waste**

27
28 **1. Findings; purpose.** The Legislature finds that the
29 establishment of a system to provide for the collection and
30 recycling of electronic devices in this State is consistent with
31 its duty to protect the health, safety and welfare of its
32 citizens, enhance and maintain the quality of the environment,
33 conserve natural resources and prevent air, water and land
34 pollution. The Legislature further finds that such a system is
35 consistent with the overall state solid waste management policy
36 including its intent to pursue and implement an integrated
37 approach to solid waste management and to aggressively promote
38 waste reduction, reuse and recycling as the preferred methods of
39 waste management.

40
41 The Legislature finds that the purpose of this section is to
42 establish a comprehensive electronics recycling system that
43 ensures the safe and environmentally sound handling, recycling
44 and disposal of electronic products and components and encourages
45 the design of electronic products and components that are less
46 toxic and more recyclable.

47
48 The Legislature further finds that it is the purpose of this
49 section to establish an electronics recycling system that is
50

2 convenient and minimizes cost to the consumer of electronic
3 products and components. It is the intent of the Legislature
4 that manufacturers of electronic products and components will be
5 responsible for ensuring proper handling, recycling and disposal
6 of discarded products and that costs associated with
7 consolidation, handling and recycling be internalized by the
8 manufacturers of electronic products and components before the
9 point of purchase.

10 The Legislature further finds that the manufacturers of
11 electronic products and components should reduce and, to the
12 extent feasible, ultimately phase out the use of hazardous
13 materials in these products.

14 The Legislature further finds that a system of shared
15 responsibility for the collection and recycling of covered
16 electronic devices among manufacturers, consolidation facilities,
17 municipalities and other parties is the most effective and
18 equitable means of achieving the purposes of this section.
19 Manufacturers of electronic devices and components, in working to
20 achieve the goals and objectives of this section, should have the
21 flexibility to act in partnership with each other, with state,
22 municipal and regional governments and with businesses that
23 provide collection and handling services to develop, implement
24 and promote a safe and effective electronics recycling system for
25 the State.

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27
28 2. Definitions. As used in this section, unless the
29 context otherwise indicates, the following terms have the
30 following meanings.

31
32 A. "Computer monitor" means a covered electronic device
33 that is a cathode ray tube or flat panel display primarily
34 intended to display information from a central processing
35 unit or the Internet.

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37
38 B. "Consolidation facility" means a facility where
39 electronic wastes are consolidated and temporarily stored
40 while awaiting shipment of at least a 40-foot trailer full
41 of covered electronic devices to a recycling, treatment or
42 disposal facility. "Consolidation facility" includes a
43 transport vehicle owned or leased by a recycling and
44 dismantling facility with a minimum 40-foot trailer used to
45 collect covered electronic devices at municipal collection
46 sites in this State.

47
48 C. "Covered electronic device" means a computer central
49 processing unit, a cathode ray tube, a cathode ray tube
50 device, a flat panel display or similar video display device
51 with a screen that is greater than 4 inches measured

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2 diagonally and that contains one or more circuit boards.
3 "Covered electronic device" does not include an automobile,
4 a household appliance, a large piece of commercial or
5 industrial equipment, such as commercial medical equipment,
6 that contains a cathode ray tube, a cathode ray tube device,
7 a flat panel display or similar video display device that is
8 contained within, and is not separate from, the larger piece
9 of equipment, or other medical devices as that term is
10 defined under the Federal Food, Drug, and Cosmetic Act.

11 D. "Manufacturer" means a person who manufactures and
12 sells, by any means, including, but not limited to,
13 transactions conducted through sales outlets, catalogs or
14 the Internet, a covered electronic device under its own
15 brand or sells a covered electronic device produced by other
16 suppliers under its own brand and label.

17 E. "Municipal collection site" means a municipally owned
18 solid waste transfer station or recycling center, including
19 a facility owned by a consortium of municipalities or a
20 facility that is under contract with a municipality or
21 consortium of municipalities to provide solid waste
22 management services.

23 F. "Office" means the Executive Department, State Planning
24 Office.

25 G. "Orphan waste" means a covered electronic device, the
26 manufacturer of which can not be identified or is no longer
27 in business and has no successor in interest.

28 H. "Recycling" means the use of materials contained in
29 previously manufactured goods as feedstock for new products,
30 but not for energy recovery or energy generation by means of
31 combustion.

32 I. "Recycling and dismantling facility" means a business
33 that processes covered electronic devices for reuse and
34 recycling.

35 J. "Retailer" means a person who sells a covered electronic
36 device in the State to a consumer. "Retailer" includes, but
37 is not limited to, a manufacturer of a covered electronic
38 device who sells directly to a consumer through any means,
39 including, but not limited to, transactions conducted
40 through sales outlets, catalogs or the Internet, or any
41 similar electronic means, but not including wholesale
42 transactions with a distributor or other retailer.
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2 K. "Television" means a covered electronic device that is a
4 cathode ray tube or flat panel display primarily intended to
6 receive video programming via broadcast, cable or satellite
8 transmission or video from surveillance or other similar
10 cameras.

12 3. Sales prohibition. Beginning January 1, 2006 the
14 following sales prohibitions apply to manufacturers and retailers.

16 A. A manufacturer not in compliance with this section is
18 prohibited from offering a covered electronic device for
20 sale in this State. A manufacturer not in compliance with
22 this section shall provide the necessary support to
24 retailers to ensure the manufacturer's covered electronic
26 devices are not offered for sale in this State.

28 B. A retailer may not offer for sale in this State a covered
30 electronic device of a manufacturer that is not in
32 compliance with this section.

34 4. Manufacturer label required. Beginning January 1, 2005,
36 a manufacturer may not offer for sale in this State a covered
38 electronic device unless a visible, permanent label clearly
40 identifying the manufacturer of that device is affixed to it.

42 5. Responsibility for recycling. Municipalities,
44 consolidation facilities, manufacturers and the State share
46 responsibility for the disposal of covered electronic devices as
48 provided in this subsection.

50 A. Each municipality that chooses to participate in the
52 state collection and recycling system shall ensure that
54 computer monitors and televisions generated as waste from
56 households within that municipality's jurisdiction are
58 delivered to a consolidation facility in this State. A
60 municipality may meet this requirement through collection at
62 and transportation from a local or regional solid waste
64 transfer station or recycling facility, by contracting with
66 a disposal facility to accept waste directly from the
68 municipality's residents or through curbside pickup or other
70 convenient collection and transportation system.

72 B. A consolidation facility is subject to the requirements
74 of this paragraph.

76 (1) Beginning January 1, 2006, a consolidation
78 facility shall identify the manufacturer of each waste
80 computer monitor and waste television delivered to the
82 facility and identified as generated by a household in
84 this State and shall maintain an accounting of the

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2 number of waste household computer monitors and waste
3 household televisions by manufacturer. By March 1st
4 each year beginning in 2007, a consolidation facility
5 shall provide this accounting by manufacturer to the
6 department.

7 (2) A consolidation facility may perform the
8 manufacturer identification required by subparagraph
9 (1) at the consolidation facility or may contract for
10 this identification and accounting service with the
11 recycling and dismantling facility to which the waste
12 is shipped.

13 (3) A consolidation facility shall work cooperatively
14 with manufacturers to ensure implementation of a
15 practical and feasible financing system. At a minimum,
16 a consolidation facility shall invoice the
17 manufacturers for the handling, transportation and
18 recycling costs for which they are responsible under
19 the provisions of this subsection.

20 (4) A consolidation facility shall transport waste
21 computer monitors and waste televisions to a recycling
22 and dismantling facility that provides a sworn
23 certification pursuant to paragraph C. A consolidation
24 facility shall maintain for a minimum of 3 years a copy
25 of the sworn certification from each recycling and
26 dismantling facility that receives covered electronic
27 devices from the consolidation facility and shall
28 provide the department with a copy of these records
29 within 24 hours of request by the department.

30 C. A recycling and dismantling facility shall provide to a
31 consolidation facility a sworn certification that its
32 handling, processing, refurbishment and recycling of covered
33 electronic devices meet guidelines for environmentally sound
34 management published by the department.

35 D. Computer monitor manufacturers and television
36 manufacturers are subject to the requirements of this
37 paragraph.

38 (1) Beginning January 1, 2006, each computer monitor
39 manufacturer and each television manufacturer is
40 individually responsible for handling and recycling all
41 computer monitors and televisions that are produced by
42 that manufacturer or by any business for which the
43 manufacturer has assumed legal responsibility, that are
44 generated as waste by households in this State and that
45 are received at consolidation facilities in this
46 State.

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2 State. In addition, each computer manufacturer is
3 responsible for a pro rata share of orphan waste
4 computer monitors and each television manufacturer is
5 responsible for a pro rata share of orphan waste
6 televisions generated as waste by households in this
7 State and received at consolidation facilities in this
8 State. The manufacturers shall pay the reasonable
9 operational costs of the consolidation facility
10 attributable to the handling of all computer monitors
11 and televisions generated as waste by households in
12 this State, the transportation costs from the
13 consolidation facility to a licensed recycling and
14 dismantling facility and the costs of recycling. The
15 manufacturers shall ensure that consolidation
16 facilities are geographically located to conveniently
17 serve all areas of the State as determined by the
18 department.

19 (2) Each computer monitor manufacturer and television
20 manufacturer shall work cooperatively with
21 consolidation facilities to ensure implementation of a
22 practical and feasible financing system. Within 90
23 days of receipt of an invoice, a manufacturer shall
24 reimburse a consolidation facility for allowable costs
25 incurred by that consolidation facility.

26 E. Annually, beginning January 1, 2007, the department
27 shall provide manufacturers and consolidation facilities
28 with a listing of each manufacturer's pro rata share of
29 orphan waste computer monitors and televisions. The
30 department shall determine each manufacturer's pro rata
31 share based on the best available information, including but
32 not limited to data provided by manufacturers and
33 consolidators and data from electronic waste collection
34 programs in other jurisdictions within the United States.

35 **6. Manufacturer plan and reporting requirements. A**
36 **manufacturer shall develop a plan and submit a report as required**
37 **in this subsection.**

38 A. A manufacturer shall develop a plan for the collection
39 and recycling or reuse of computer monitors and televisions
40 as follows.

41 (1) By March 1, 2005, a manufacturer of computer
42 monitors and a manufacturer of televisions shall
43 develop and submit to the department a plan for the
44 collection and recycling or reuse of computer monitors
45 and televisions produced by the manufacturer and
46 generated as waste by households in this State. This
47 plan shall include:
48 (a) a description of the manufacturer's current
49 practices for the collection and recycling or reuse of
50 computer monitors and televisions;

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2 plan must be based on the manufacturer's taking
3 responsibility for its products upon receipt at
4 consolidation facilities in the State.

6 (2) By January 1, 2012, a manufacturer of computer
7 monitors and a manufacturer of televisions shall
8 implement and finance the implementation of this plan
9 for the collection and recycling or reuse of computer
10 monitors and televisions produced by the manufacturer
11 and generated as waste by households in this State.

12 (3) Notwithstanding subparagraphs (1) and (2), a
13 manufacturer may satisfy the plan requirements of this
14 paragraph by agreeing to participate in a collective
15 recovery plan with other manufacturers. The collective
16 recovery plan must meet the same standards and
17 requirements of the plans submitted by individual
18 manufacturers.

20 (4) The plan developed by the manufacturer must
21 include, at a minimum:

22 (a) A description of the collection system,
23 including the methods of convenient collection;

26 (b) A public education element to inform the
27 public about the collection system, including
28 details about meeting all consumer notification
29 and labeling requirements;

30 (c) Details for implementing and financing the
31 handling of computer monitors and televisions
32 produced by the manufacturer and orphan waste
33 computer monitors and televisions that are
34 generated as waste by households in this State and
35 received by consolidation facilities in this State;

38 (d) Details for the method of reimbursing
39 consolidation facilities for the costs of handling
40 and recycling the household computer monitors and
41 televisions;

42 (e) Documentation of the willingness of all
43 necessary parties to implement the plan, including
44 the parties that will participate in the
45 consolidation, treatment, recovery, reuse and
46 recycling of the computer monitors and televisions;

48 (f) Assurances that the plan and all necessary
49 parties will operate in compliance with local,
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state and federal waste management laws, rules and regulations;

(g) Descriptions of the performance measures that will be used and reported by the manufacturer to report recovery and recycling rates for computer monitors and televisions at the end of life of those computer monitors and televisions;

(h) Descriptions of additional or alternative actions that will be taken to improve recovery and recycling rates, if needed; and

(i) Annual sales data on the number and type of computer monitors and televisions sold by the manufacturer in this State over the 5 years preceding the filing of the plan.

(5) A manufacturer is responsible for all costs associated with the development and implementation of the plan. If the costs are passed on to consumers, the costs must be imposed at the time of purchase and not with a fee imposed at the end of life of the computer monitor or television.

B. Beginning July 1, 2007, and annually thereafter, a manufacturer that offers a computer monitor or television for sale in this State shall submit a report to the department that includes the following: a description of the collection, consolidation and recycling services utilized to recover the manufacturer's products; substantiated estimates, on an annual basis for the preceding calendar year, of the quantities of covered electronic devices marketed in this State and collected for recovery in this State; the capture rate for electronics based on sales in this State; substantiated estimates of the percentage of collected materials that are reused and recycled from its products; the identification of end markets for the collected waste; and any systems implemented by the manufacturer to ensure environmentally sound management of its products. The department may keep information submitted pursuant to this paragraph confidential as provided under section 1310-B.

7. Enforcement. The department must enforce this section in accordance with the provisions of sections 347-A and 349.

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

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2 over natural resources matters by January 15, 2008 and every 2
3 years thereafter until January 15, 2014. The report must include
4 an evaluation of the recycling rates in the State for covered
5 electronic devices, a discussion of compliance and enforcement
6 related to the requirements of this section and recommendations
7 for any changes to the system of collection and recycling of
8 electronic devices in the State.

9 9. State procurement. All vendors of electronic devices to
10 the State shall provide take-back and management services for
11 their products at the end of life of those products and must be
12 in compliance with all the requirements of this section. Vendors
13 shall provide assurances that all take-back and management
14 services will operate in compliance with all applicable
15 environmental laws. Purchasing preference must be given to
16 electronic devices that incorporate design for the preservation
17 of the environment.

18 **Sec. 3. Management guidelines.** By December 31, 2004, the
19 Department of Environmental Protection shall publish management
20 guidelines for the environmentally sound handling, processing,
21 refurbishment and recycling of covered electronic devices as
22 required by the Maine Revised Statutes, Title 38, section 1609,
23 subsection 5, paragraph C.'

24
25 **SUMMARY**

26
27 This amendment is the majority report. The amendment
28 replaces the bill. The amendment establishes a system to provide
29 for the collection and recycling of computer monitors and
30 televisions in the State.
31

32
33 Under the amendment, municipalities that choose to
34 participate must ensure that computer monitors and televisions
35 generated as waste from households within their jurisdictions are
36 delivered to a consolidation facility.
37

38
39 Beginning in 2006, consolidation facilities are required to
40 identify the manufacturer of computer monitors and televisions
41 delivered to the facility and to transport those items to
42 recycling and dismantling facilities.

43
44 Beginning in 2006, computer manufacturers and television
45 manufacturers are responsible for the handling and recycling of
46 computer monitors and televisions that are received at
47 consolidation facilities and must pay for the operational costs
48 of the consolidation facilities attributable to the handling of
49 computer monitors and televisions.
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2 The amendment requires manufacturers of computer monitors
and televisions to submit plans for the collection and recycling
4 of computer monitors and televisions. It also establishes
reporting requirements for manufacturers.

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FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1892

**An Act To Protect Public Health and the Environment by Providing for
a System of Shared Responsibility for the Safe Collection and Recycling
of Electronic Waste**

LR 2752(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Natural Resources

Fiscal Note Required: Yes

Majority Report

Fiscal Note

Minor cost increase - General Fund
Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

This bill establishes a system of shared responsibility among manufacturers, consolidation facilities and municipalities to provide for the collection and recycling of computer monitors and TVs. Municipalities can choose to participate in the proposed system but are not required. Computer monitor manufacturers and television manufacturers are required to establish a financing system to handle the operational costs incurred by the consolidation facilities and municipal collection sites that provide collection and handling services of electronic waste. The bill indicates that consolidation facilities will invoice manufacturers for the handling, transportation and recycling costs. In addition, computer and television manufacturers are responsible for a pro rata share of costs associated with orphan waste which is defined as a covered electronic device the manufacturer of which can not be identified or is no longer in business.

The Department of Environmental Protection will absorb the costs associated with enforcing the statutory compliance of all the participating parties with these new collection and handling requirements as well as reporting to the Legislature and carrying out other specified duties.