

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 536

H.P. 381

House of Representatives, February 12, 2009

### An Act To Enhance Maine's Electronic Waste Recycling Law

(EMERGENCY)

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Reference to the Committee on Natural Resources suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative HINCK of Portland.  
Cosponsored by Senator GOODALL of Sagadahoc and  
Representatives: BERRY of Bowdoinham, DUCHESNE of Hudson, KNAPP of Gorham,  
MARTIN of Eagle Lake, Speaker PINGREE of North Haven, Senators: MARRACHÉ of  
Kennebec, NUTTING of Androscoggin, RECTOR of Knox.

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

3           **Whereas,** this legislation requires electronics manufacturers to register by July 1,  
4 2009, which is before the expiration of the 90-day period; and

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

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

10           **Sec. 1. 38 MRSA §1310-B, sub-§2,** as repealed and replaced by PL 2007, c. 466,  
11 Pt. A, §72, is amended to read:

12           **2. Hazardous waste information and information on mercury-added products**  
13 **and electronic devices and mercury reduction plans.** Information relating to  
14 hazardous waste submitted to the department under this subchapter, information relating  
15 to mercury-added products submitted to the department under chapter 16-B, information  
16 relating to electronic devices submitted to the department under section 1610, subsection  
17 ~~6, paragraph A, subparagraph (4), division (i) and section 1610, subsection 6, paragraph~~  
18 ~~B 6-A~~ or information relating to mercury reduction plans submitted to the department  
19 under section 585-B, subsection 6 may be designated by the person submitting it as being  
20 only for the confidential use of the department, its agents and employees, the Department  
21 of Agriculture, Food and Rural Resources and the Department of Health and Human  
22 Services and their agents and employees, other agencies of State Government, as  
23 authorized by the Governor, employees of the United States Environmental Protection  
24 Agency and the Attorney General and, for waste information, employees of the  
25 municipality in which the waste is located. The designation must be clearly indicated on  
26 each page or other portion of information. The commissioner shall establish procedures  
27 to ensure that information so designated is segregated from public records of the  
28 department. The department's public records must include the indication that information  
29 so designated has been submitted to the department, giving the name of the person  
30 submitting the information and the general nature of the information. Upon a request for  
31 information, the scope of which includes information so designated, the commissioner  
32 shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall  
33 demonstrate to the satisfaction of the department that the designated information should  
34 not be disclosed because the information is a trade secret or production, commercial or  
35 financial information, the disclosure of which would impair the competitive position of  
36 the submitter and would make available information not otherwise publicly available.  
37 Unless such a demonstration is made, the information must be disclosed and becomes a  
38 public record. The department may grant or deny disclosure for the whole or any part of  
39 the designated information requested and within 15 days shall give written notice of the  
40 decision to the submitter and the person requesting the designated information. A person  
41 aggrieved by a decision of the department may appeal only to the Superior Court in  
42 accordance with the provisions of section 346. All information provided by the  
43 department to the municipality under this subsection is confidential and not a public

1 record under Title 1, chapter 13. In the event a request for such information is submitted  
2 to the municipality, the municipality shall submit that request to the commissioner to be  
3 processed by the department as provided in this subsection.

4 **Sec. 2. 38 MRSA §1610, sub-§2, ¶A**, as reallocated by RR 2003, c. 2, §119, is  
5 amended to read:

6 A. "Computer monitor" means a covered electronic device that is a cathode ray tube  
7 or flat panel display primarily intended to display information from a central  
8 processing unit or the Internet. "Computer monitor" includes a digital picture frame.

9 **Sec. 3. 38 MRSA §1610, sub-§2, ¶C**, as reallocated by RR 2003, c. 2, §119, is  
10 amended to read:

11 C. "Covered electronic device" means a computer central processing unit, a desktop  
12 printer, a video game console, a cathode ray tube, a cathode ray tube device, a flat  
13 panel display or similar video display device with a screen that is greater than 4  
14 inches measured diagonally and that contains one or more circuit boards. "Covered  
15 electronic device" does not include an automobile, a household appliance, a large  
16 piece of commercial or industrial equipment, such as commercial medical equipment,  
17 that contains a cathode ray tube, a cathode ray tube device, a flat panel display or  
18 similar video display device that is contained within, and is not separate from, the  
19 larger piece of equipment, or other medical devices as that term is defined under the  
20 Federal Food, Drug, and Cosmetic Act.

21 **Sec. 4. 38 MRSA §1610, sub-§2, ¶C-1** is enacted to read:

22 C-1. "Desktop printer" means a device that prints text or illustrations on paper and  
23 that is designed for external use with a desktop or portable computer. "Desktop  
24 printer" includes, but is not limited to, a daisy wheel, dot matrix, inkjet, laser, LCD  
25 and LED line or thermal printer, including a device that performs other functions in  
26 addition to printing such as copying, scanning or transmitting a facsimile.

27 **Sec. 5. 38 MRSA §1610, sub-§2, ¶L** is enacted to read:

28 L. "Video game console" means an interactive entertainment computer or electronic  
29 device that produces a video display signal that can be used with a display device  
30 such as a television or computer monitor to display a video game.

31 **Sec. 6. 38 MRSA §1610, sub-§5**, as amended by PL 2007, c. 292, §43, is further  
32 amended to read:

33 **5. Responsibility for recycling.** Municipalities, consolidators, manufacturers and  
34 the State share responsibility for the disposal of covered electronic devices as provided in  
35 this subsection.

36 A. Each municipality that chooses to participate in the state collection and recycling  
37 system shall ensure that computer monitors and televisions generated as waste from  
38 households within that municipality's jurisdiction are delivered to a consolidation  
39 facility in this State. A municipality may meet this requirement through collection at  
40 and transportation from a local or regional solid waste transfer station or recycling

1 facility, by contracting with a disposal facility to accept waste directly from the  
2 municipality's residents or through curbside pickup or other convenient collection and  
3 transportation system.

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

5 (1) ~~Beginning January 1, 2006, a~~ A consolidator shall identify the manufacturer  
6 of each ~~waste~~ computer monitor ~~and waste,~~ television, desktop printer and video  
7 game console delivered to a consolidation facility and identified as generated by  
8 a household in this State and shall maintain an accounting of the number of ~~waste~~  
9 ~~household~~ computer monitors ~~and waste household,~~ televisions, desktop printers  
10 and video game consoles by manufacturer. By March 1st each year ~~beginning in~~  
11 ~~2007,~~ a consolidator shall provide this accounting by manufacturer to the  
12 department.

13 (2) A consolidator may perform the manufacturer identification required by  
14 subparagraph (1) at the consolidation facility or may contract for this  
15 identification and accounting service with the recycling and dismantling facility  
16 to which the ~~waste is~~ covered electronic devices are shipped.

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

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

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

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

35 (1) ~~Ninety days after the department adopts rules as provided for in this~~  
36 ~~subparagraph, each~~ Each computer monitor manufacturer ~~and ,~~ each television  
37 manufacturer, each desktop printer manufacturer and each video game console  
38 manufacturer is individually responsible for handling and recycling all computer  
39 monitors ~~and ,~~ televisions, desktop printers and video game consoles that are  
40 produced by that manufacturer or by any business for which the manufacturer has  
41 assumed legal responsibility, that are generated as waste by households in this  
42 State and that are received at consolidation facilities in this State. In addition,  
43 each computer monitor manufacturer is responsible for a pro rata share of orphan  
44 waste computer monitors ~~and ,~~ each television manufacturer is responsible for a

1 pro rata share of orphan waste televisions, each desktop printer manufacturer is  
2 responsible for a pro rata share of orphan waste desktop printers and each video  
3 game console manufacturer is responsible for a pro rata share of orphan waste  
4 video game consoles generated as waste by households in this State and received  
5 at consolidation facilities in this State. The manufacturers shall pay the  
6 reasonable operational costs of the consolidator attributable to the handling of all  
7 computer monitors and , televisions, desktop printers and video game consoles  
8 generated as waste by households in this State, the transportation costs from the  
9 consolidation facility to a licensed recycling and dismantling facility and the  
10 costs of recycling. ~~The manufacturers shall ensure~~ Reasonable operational costs  
11 include ensuring that consolidation facilities are geographically located to  
12 conveniently serve all areas of the State as determined by the department. ~~By~~  
13 ~~November 1, 2005, the department shall adopt routine technical rules as defined~~  
14 ~~in Title 5, chapter 375, subchapter 2-A that identify the criteria that consolidators~~  
15 ~~must use to determine reasonable operational costs attributable to the handling of~~  
16 ~~computer monitors and televisions.~~

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

23 E. Annually, ~~beginning January 1, 2006, by January 1st~~ the department shall provide  
24 manufacturers and consolidators with a listing of each manufacturer's pro rata share  
25 of orphan waste computer monitors and, televisions, desktop printers and video game  
26 consoles. The department shall determine each manufacturer's pro rata share based  
27 on the best available information, including but not limited to data provided by  
28 manufacturers and consolidators and data from electronic waste collection programs  
29 in other jurisdictions within the United States.

30 **Sec. 7. 38 MRSA §1610, sub-§6**, as amended by PL 2007, c. 292, §44, is  
31 repealed.

32 **Sec. 8. 38 MRSA §1610, sub-§6-A** is enacted to read:

33 **6-A. Manufacturer registration.** By July 1st annually, a manufacturer that offers  
34 or has offered a computer monitor, television, desktop printer or video game console for  
35 sale in this State shall submit a registration to the department that includes:

36 A. The name, contact and billing information of the manufacturer;

37 B. The manufacturer's brand name or names and the type of televisions, video game  
38 consoles, computer monitors and desktop printers on which each brand is used,  
39 including:

40 (1) All brands sold in the State in the past; and

41 (2) All brands currently being sold in the State;

1           C. When a word or phrase is used as the label, the manufacturer must include that  
2           word or phrase and a general description of the ways in which it may appear on the  
3           manufacturer's electronic products;

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

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

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

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

15           A manufacturer's annual registration filed subsequent to its initial registration must  
16           clearly delineate any changes in information from the previous year's registration.  
17           Whenever there is any change to the information on the manufacturer's registration, the  
18           manufacturer shall submit an updated form within 14 days of the change.

19           **Sec. 9. 38 MRSA §1610, sub-§10** is enacted to read:

20           **10. Rulemaking.** The department shall adopt routine technical rules as defined in  
21           Title 5, chapter 375, subchapter 2-A as necessary to implement, administer and enforce  
22           this chapter. The rules must identify the criteria that consolidators must use to determine  
23           reasonable operational costs attributable to the handling of computer monitors, video  
24           game consoles, televisions and desktop printers.

25           **Sec. 10. 38 MRSA §1610, sub-§11** is enacted to read:

26           **11. Interstate clearinghouse for electronic waste.** The department may participate  
27           in the establishment and implementation of a regional multistate organization or compact  
28           to assist in carrying out the requirements of this chapter.

29           **Sec. 11. Transition.** Prior to July 1, 2009, a manufacturer may meet the  
30           requirements of the Maine Revised Statutes, Title 38, section 1610, subsection 6 by  
31           registering in accordance with section 1610, subsection 6-A as enacted in this Act.

32           **Sec. 12. Application.** The provisions of the Maine Revised Statutes, Title 38,  
33           section 1610, subsection 5, paragraph D apply to desktop printers and video game  
34           consoles beginning January 1, 2010.

35           **Sec. 13. Effective date.** That section of this Act that enacts the Maine Revised  
36           Statutes, Title 38, section 1610, subsection 6-A takes effect July 1, 2009.

37           **Emergency clause.** In view of the emergency cited in the preamble, this  
38           legislation takes effect when approved, except as otherwise indicated.

1

## SUMMARY

2 This bill amends Maine's electronics recycling laws to do the following.

3 1. It adds desktop printers and video game consoles to the electronic devices covered  
4 by the recycling laws.

5 2. It clarifies that digital picture frames are a type of computer monitor and, as such,  
6 are subject to the recycling laws.

7 3. It repeals provisions that currently require manufacturers of covered electronic  
8 devices to submit a recycling plan and an annual report to the Department of  
9 Environmental Protection and replaces the repealed manufacturer responsibility  
10 provisions with an annual registration requirement designed to reduce the regulatory  
11 burden for manufacturers while providing the information needed by the Department of  
12 Environmental Protection to effectively administer the recycling laws.