

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1156

S.P. 428

In Senate, March 25, 2009

An Act To Amend the Laws Governing the Recycling of Televisions

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator SIMPSON of Androscoggin.
Cosponsored by Representative EBERLE of South Portland and
Senators: CRAVEN of Androscoggin, GOODALL of Sagadahoc, Representatives: BOLDUC
of Auburn, PRATT of Eddington, RUSSELL of Portland.

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

2 Sec. 1. 38 MRSA §1610, sub-§2, ¶D-1 is enacted to read:

3 D-1. "Market share" means a manufacturer's national sales of a covered electronic
4 device expressed as a percentage of the total of all manufacturers' national sales for
5 that category of covered electronic devices.

6 Sec. 2. 38 MRSA §1610, sub-§2, ¶G, as reallocated by RR 2003, c. 2, §119, is
7 amended to read:

8 G. "Orphan waste" means a covered electronic device, excluding a television, the
9 manufacturer of which can not be identified or is no longer in business and has no
10 successor in interest.

11 Sec. 3. 38 MRSA §1610, sub-§5, as amended by PL 2007, c. 292, §43, is further
12 amended to read:

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

16 A. Each municipality that chooses to participate in the state collection and recycling
17 system shall ensure that computer monitors and televisions generated as waste from
18 households within that municipality's jurisdiction are delivered to a consolidation
19 facility in this State. A municipality may meet this requirement through collection at
20 and transportation from a local or regional solid waste transfer station or recycling
21 facility, by contracting with a disposal facility to accept waste directly from the
22 municipality's residents or through curbside pickup or other convenient collection and
23 transportation system.

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

25 (1) ~~Beginning January 1, 2006, a~~ A consolidator shall identify the manufacturer
26 of each waste computer monitor ~~and waste television~~ delivered to a consolidation
27 facility and identified as generated by a household in this State and shall maintain
28 an accounting of the number of waste household computer monitors ~~and waste~~
29 ~~household televisions~~ by manufacturer. By March 1st each year ~~beginning in~~
30 ~~2007~~, a consolidator shall provide this accounting by manufacturer to the
31 department.

32 (1-A) A consolidator shall maintain a written log of the total weight of
33 televisions delivered each month to the consolidator and identified as generated
34 by a household in the State. By March 1st each year, a consolidator shall provide
35 this accounting to the department.

36 (2) A consolidator may perform the manufacturer identification required by
37 subparagraph (1) at the consolidation facility or may contract for this
38 identification and accounting service with the recycling and dismantling facility
39 to which the waste is shipped.

1 (3) A consolidator shall work cooperatively with manufacturers to ensure
2 implementation of a practical and feasible financing system with costs calculated
3 for televisions on a sliding scale basis that is representative of the manufacturer's
4 market share of televisions in the State multiplied by the total pounds recycled.
5 At a minimum, a consolidator shall invoice the manufacturers for the handling,
6 transportation and recycling costs for which they are responsible under the
7 provisions of this subsection.

8 (4) A consolidator shall transport waste computer monitors and waste televisions
9 to a recycling and dismantling facility that provides a sworn certification
10 pursuant to paragraph C. A consolidator shall maintain for a minimum of 3 years
11 a copy of the sworn certification from each recycling and dismantling facility that
12 receives covered electronic devices from the consolidator and shall provide the
13 department with a copy of these records within 24 hours of request by the
14 department.

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

19 D. Computer monitor manufacturers and television manufacturers are subject to the
20 requirements of this paragraph.

21 (1) Ninety days after the department adopts rules as provided for in this
22 subparagraph, each computer monitor manufacturer ~~and each television~~
23 ~~manufacturer~~ is individually responsible for handling and recycling all computer
24 monitors ~~and televisions~~ that are produced by that manufacturer or by any
25 business for which the manufacturer has assumed legal responsibility, that are
26 generated as waste by households in this State and that are received at
27 consolidation facilities in this State. In addition, each computer manufacturer is
28 responsible for a pro rata share of orphan waste computer monitors ~~and each~~
29 ~~television manufacturer is responsible for a pro rata share of orphan waste~~
30 ~~televisions~~ generated as waste by households in this State and received at
31 consolidation facilities in this State. The manufacturers shall pay the reasonable
32 operational costs of the consolidator attributable to the handling of all computer
33 monitors and televisions generated as waste by households in this State, the
34 transportation costs from the consolidation facility to a licensed recycling and
35 dismantling facility and the costs of recycling. The recycling of televisions must
36 be funded by allocating the cost of the program among the manufacturers selling
37 televisions in the State based on a sliding scale that is representative of the
38 manufacturer's market share of televisions in the State. Market share information
39 must be based on available national market share data. The manufacturers shall
40 ensure that consolidation facilities are geographically located to conveniently
41 serve all areas of the State as determined by the department. By November 1,
42 2005, the department shall adopt routine technical rules as defined in Title 5,
43 chapter 375, subchapter 2-A that identify the criteria that consolidators must use
44 to determine reasonable operational costs attributable to the handling of computer
45 monitors and televisions.

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

6 E. Annually, ~~beginning January 1, 2006,~~ the department shall provide
7 manufacturers of computer monitors and consolidators with a listing of each
8 manufacturer's pro rata share of orphan waste computer monitors ~~and televisions~~.
9 The department shall determine each manufacturer's pro rata share based on the best
10 available information, including but not limited to data provided by manufacturers
11 and consolidators and data from electronic waste collection programs in other
12 jurisdictions within the United States.

13 **Sec. 4. 38 MRSA §1610, sub-§6, ¶A,** as amended by PL 2007, c. 292, §44, is
14 further amended to read:

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

17 (1) ~~By March 1, 2005,~~ a A manufacturer of computer monitors and a
18 manufacturer of televisions shall develop and submit to the department a plan for
19 the collection and recycling or reuse of computer monitors and televisions
20 ~~produced by the manufacturer and~~ generated as waste by households in this State.
21 ~~This~~ For manufacturers of computer monitors, this plan must be based on the
22 manufacturer's taking responsibility for its products upon receipt at consolidation
23 facilities in the State. For manufacturers of televisions, this plan must be based
24 on the manufacturer's taking responsibility for its market share of televisions in
25 the State. Following submission of the original plan, manufacturers may revise
26 their plans at any time as they may consider appropriate in response to changing
27 circumstances or needs only if these revisions conform to the provisions of this
28 section and rules adopted pursuant to this section and are submitted to the
29 department in a timely fashion.

30 (2) Ninety days after the department adopts rules under subsection 5, paragraph
31 D, subparagraph (1), a manufacturer of computer monitors and a manufacturer of
32 televisions shall implement and finance the implementation of this plan for the
33 collection and recycling or reuse of computer monitors and televisions ~~produced~~
34 ~~by the manufacturer and~~ generated as waste by households in this State.

35 (3) Notwithstanding subparagraphs (1) and (2), a manufacturer may satisfy the
36 plan requirements of this paragraph by agreeing to participate in a collective
37 recovery plan with other manufacturers. The collective recovery plan must meet
38 the same standards and requirements of the plans submitted by individual
39 manufacturers.

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

41 (a) A description of the collection system, including the methods of
42 convenient collection;

1 (b) A public education element to inform the public about the collection
2 system, including details about meeting all consumer notification and
3 labeling requirements;

4 (c) Details For manufacturers of computer monitors, details for
5 implementing and financing the handling of computer monitors and
6 televisions produced by the manufacturer and orphan waste computer
7 monitors and televisions that are generated as waste by households in this
8 State and received by consolidation facilities in this State;

9 (c-1) For manufacturers of televisions, details for implementing and
10 financing the handling of televisions that are generated as waste by
11 households in this State and received by consolidation facilities in this State;

12 (d) Details for the method of reimbursing consolidators for the costs of
13 handling and recycling the household computer monitors and televisions;

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

18 (i) Annual sales data on the number and type of computer monitors and or
19 televisions sold by the manufacturer in this State over the 5 years preceding
20 the filing of the plan. The department may keep information submitted
21 pursuant to this division confidential as provided under section 1310-B.

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

26 **Sec. 5. 38 MRSA §1610, sub-§7**, as amended by PL 2005, c. 330, §40, is further
27 amended to read:

28 **7. Enforcement; cost recovery.** The department must enforce this section in
29 accordance with the provisions of sections 347-A and 349. If a manufacturer fails to pay
30 for the costs allocated to it pursuant to section 1610, subsection 5, paragraph D,
31 subparagraph (1), including, for a computer monitor manufacturer, its pro rata share of
32 costs attributable to orphan waste, the department may pay a consolidator its legitimate
33 costs from the Maine Solid Waste Management Fund established in section 2201 and
34 seek cost recovery from the nonpaying manufacturer. Any nonpaying manufacturer is
35 liable to the State for costs incurred by the State in an amount up to 3 times the amount
36 incurred as a result of such failure to comply.

37 The Attorney General is authorized to commence a civil action against any manufacturer
38 to recover the costs described in this subsection, which are in addition to any fines and
39 penalties established pursuant to section 349. Any money received by the State pursuant
40 to this subsection must be deposited in the Maine Solid Waste Management Fund
41 established in section 2201.

SUMMARY

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This bill changes the basis for television manufacturers' responsibility for recycling televisions to a market share basis. It assigns the cost of the program among television manufacturers on a sliding scale based on the number of televisions each manufacturer sells compared to all televisions recycled.