

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1847

H.P. 1284

House of Representatives, February 27, 2018

An Act To Amend the State's Electronic Waste Laws

Reported by Representative TUCKER of Brunswick for the Joint Standing Committee on Environment and Natural Resources pursuant to the Maine Revised Statutes, Title 38, section 1772, subsection 5.

Reference to the Committee on Environment and Natural Resources suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 38 MRSA §1610, sub-§2**, as amended by PL 2011, c. 250, §§2 to 4, is
3 further amended to read:

4 **2. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

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 B. "Consolidation facility" means a facility where electronic wastes are consolidated
10 and temporarily stored while awaiting shipment of at least a 40-foot trailer full of
11 covered electronic devices to a recycling, treatment or disposal facility.
12 "Consolidation facility" includes a transport vehicle owned or leased by a
13 consolidator and used to collect covered electronic devices at collection sites in this
14 State at a cost no greater than the per pound transportation rate for a full 40-foot
15 trailer as approved by the department for each consolidator pursuant to the rules
16 governing reasonable operational costs adopted under subsection 5, paragraph D,
17 subparagraph (1).

18 B-1. "Consolidator" means a person that provides consolidation and handling
19 services for electronic wastes and that operates at least one consolidation facility.

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

24 C. "Covered electronic device" means ~~a computer central processing unit~~, a desktop
25 printer, a video game console, a cathode ray tube, a cathode ray tube device, ~~a flat~~
26 ~~panel display or similar video display device~~ and a consumer electronic device with a
27 display screen that is greater than 4 inches measured diagonally and that contains one
28 or more circuit boards. "Covered electronic device" does not include an automobile;
29 a household appliance;
30 a large piece of commercial or industrial equipment, such as
31 commercial medical equipment, that contains a cathode ray tube, a cathode ray tube
32 device, a flat panel display or similar video display device that is contained within,
33 and is not separate from, the larger piece of equipment, ~~or~~ other medical devices as
34 that term is defined under the Federal Food, Drug, and Cosmetic Act; or a cellular
telephone subject to section 2143.

35 C-1. "Desktop printer" means a device weighing 100 pounds or less that prints text
36 or illustrations on paper or 3-dimensional objects and that is designed for external use
37 with a desktop or portable computer. "Desktop printer" includes, but is not limited
38 to, a daisy wheel, dot matrix, inkjet, laser, LCD and LED line or thermal printer,
39 including a device that performs other functions in addition to printing such as
40 copying, scanning or transmitting a facsimile.

41 D. "Manufacturer" means a person who:

- 1 (1) Manufactures or has manufactured a covered electronic device under its own
2 brand or label;
- 3 (2) Sells or has sold under its own brand or label a covered electronic device
4 produced by other suppliers;
- 5 (3) Imports or has imported a covered electronic device into the United States
6 that is manufactured by a person without a presence in the United States; or
- 7 (4) Owns a brand that it licenses or licensed to another person for use on a
8 covered electronic device.

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

12 E. "Municipal collection site" means a municipally owned solid waste transfer
13 station or recycling center, including a facility owned by a consortium of
14 municipalities or a facility that is under contract with a municipality or consortium of
15 municipalities to provide solid waste management services.

16 ~~G. "Orphan waste" means a covered electronic device, excluding a video game
17 console and a television, the manufacturer of which can not be identified or is no
18 longer in business and has no successor in interest.~~

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

22 I. "Recycling and dismantling facility" means a business that processes covered
23 electronic devices for reuse and recycling.

24 J. "Retailer" means a person who sells or provides a platform for the sale of
25 a covered electronic device in the State to a consumer. "Retailer" includes, but is not
26 limited to, a manufacturer of a covered electronic device who sells directly to a
27 consumer through any means, including, but not limited to, transactions conducted
28 through sales outlets, catalogs or the Internet, or any similar electronic means, but not
29 including wholesale transactions with a distributor or other retailer.

30 ~~K. "Television" means a covered electronic device that is a cathode ray tube or flat
31 panel display primarily intended to receive video programming via broadcast, cable
32 or satellite transmission or video from surveillance or other similar cameras.~~

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

36 **Sec. 2. 38 MRSA §1610, sub-§5**, as amended by PL 2011, c. 250, §§5 to 8, is
37 further amended to read:

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

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

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

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

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

21 (1-A) A consolidator shall maintain a written log of the total weight of
22 ~~televisions and video game consoles~~ each type of covered electronic device
23 delivered each month to the consolidator and identified as generated by a covered
24 entity in the State. By March 1st each year, a consolidator shall provide this
25 accounting to the department.

26 ~~(2) A consolidator may perform the manufacturer identification required by~~
27 ~~subparagraph (1) at the consolidation facility or may contract for this~~
28 ~~identification and accounting service with the recycling and dismantling facility~~
29 ~~to which the covered electronic devices are shipped.~~

30 (3) A consolidator shall work cooperatively with manufacturers to ensure
31 implementation of a practical and feasible financing system with costs calculated
32 ~~for televisions~~ on a basis proportional to the manufacturer's national market share
33 of ~~televisions~~ each type of covered electronic device sold in the State multiplied
34 by the total pounds recycled ~~and with costs calculated for video game consoles~~
35 ~~on a basis proportional to the manufacturer's national market share of video game~~
36 ~~consoles in the State multiplied by the total pounds recycled.~~ At a minimum, a
37 consolidator shall invoice the manufacturers for the handling, transportation and
38 recycling costs for which they are responsible under the provisions of this
39 subsection.

40 (4) A consolidator shall transport ~~computer monitors, televisions, desktop~~
41 ~~printers and video game consoles~~ covered electronic devices to a recycling and
42 dismantling facility that provides a sworn certification pursuant to paragraph C.
43 A consolidator shall maintain for a minimum of 3 years a copy of the sworn
44 certification from each recycling and dismantling facility that receives covered

1 electronic devices from the consolidator and shall provide the department with a
2 copy of these records within 24 hours of request by the department.

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

7 D. ~~Computer monitor, television, desktop printer and video game console~~ Covered
8 electronic device manufacturers are subject to the requirements of this paragraph.

9 (1) ~~Each computer monitor manufacturer and each desktop printer manufacturer~~
10 ~~is individually responsible for handling and recycling all computer monitors and~~
11 ~~desktop printers that are produced by that manufacturer or by any business for~~
12 ~~which the manufacturer has assumed legal responsibility, that are generated as~~
13 ~~waste by covered entities in this State and that are received at consolidation~~
14 ~~facilities in this State. In addition, each computer manufacturer is responsible for~~
15 ~~a pro rata share of orphan waste computer monitors and each desktop printer~~
16 ~~manufacturer is responsible for a pro rata share of orphan waste desktop printers~~
17 ~~generated as waste by covered entities in this State and received at consolidation~~
18 ~~facilities. The manufacturers~~ Manufacturers shall pay the reasonable operational
19 costs of the consolidator attributable to the handling of all ~~computer monitors,~~
20 ~~televvisions, desktop printers and video game consoles~~ covered electronic devices
21 received at consolidation facilities in this State, the transportation costs from the
22 consolidation facility to a licensed recycling and dismantling facility and the
23 costs of recycling. "Reasonable operational costs" includes the costs associated
24 with ensuring that consolidation facilities are geographically located to
25 conveniently serve all areas of the State as determined by the department. The
26 recycling of ~~televvisions~~ each type of covered electronic device must be funded by
27 allocating the cost of the program among the manufacturers selling ~~televvisions~~
28 covered electronic devices in the State on a basis proportional to the
29 ~~manufacturer's national market share of televvisions~~ the type of covered electronic
30 device. The department shall annually determine each ~~television~~ manufacturer's
31 recycling share based on readily available national market share data. If the
32 department determines that a ~~television~~ manufacturer's market share is less than
33 1/10 of 1%, the department may determine that market share de minimus. A
34 ~~television~~ manufacturer whose market share is determined de minimus by the
35 department is not responsible for payment of a pro rata share of ~~televvisions~~ for
36 the corresponding billing year. The total market shares determined de minimus
37 by the department must be proportionally allocated to and paid for by the
38 ~~television~~ manufacturers that have 1/10 of 1% or more of the market of each type
39 of covered electronic device. ~~The recycling of video game consoles must be~~
40 ~~funded by allocating the cost of the program among the manufacturers selling~~
41 ~~video game consoles in the State on a basis proportional to the manufacturer's~~
42 ~~national market share of video game consoles. The department shall annually~~
43 ~~determine each video game console manufacturer's recycling share based on~~
44 ~~readily available national market share data. If the department determines that a~~
45 ~~video game console manufacturer's market share is less than 1/10 of 1%, the~~
46 ~~department may determine that market share de minimus. A video game console~~

1 manufacturer whose market share is determined de minimus by the department is
2 not responsible for payment of a pro rata share of video game consoles for the
3 corresponding billing year. The total market shares determined de minimus by
4 the department must be proportionally allocated to and paid for by the video
5 game console manufacturers that have 1/10 of 1% or more of the market.

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

12 E. Annually by January 1st the department shall provide manufacturers of computer
13 monitors and desktop printers and consolidators with a listing of each manufacturer's
14 pro rata share of orphan waste computer monitors and desktop printers. The
15 department shall determine each manufacturer's pro rata share based on the best
16 available information, including but not limited to data provided by manufacturers
17 and consolidators and data from electronic waste collection programs in other
18 jurisdictions within the United States. Annually, the department shall also provide
19 manufacturers of televisions and consolidators with a listing of each television
20 manufacturer's proportional market share responsibility for the recycling of
21 televisions covered electronic devices for the subsequent calendar year. Annually by
22 January 1st, the department shall also provide manufacturers of video game consoles
23 and consolidators with a listing of each video game console manufacturer's
24 proportional market share responsibility for the recycling of video game consoles for
25 the subsequent calendar year.

26 **Sec. 3. 38 MRSA §1610, sub-§6-A**, as amended by PL 2011, c. 250, §9, is
27 further amended to read:

28 **6-A. Manufacturer registration.** Prior to offering a covered electronic device and
29 by July ~~April~~ 1st annually, a manufacturer that offers or has offered a computer monitor
30 or desktop printer, or offers or has offered within the preceding calendar year a television
31 or video game console, covered electronic device for sale in or into this State shall submit
32 a registration to the department. The annual registration must include:

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

34 B. The manufacturer's brand name or names and the type of televisions, video game
35 consoles, computer monitors and desktop printers covered electronic device on which
36 each brand is used, including:

37 (1) All brands sold in the State in the ~~past~~ preceding calendar year; and

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

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

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

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

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

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

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

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

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

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

27 **Sec. 4. 38 MRSA §1610, sub-§7**, as amended by PL 2009, c. 397, §10, is further
28 amended to read:

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

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

