

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2009**

investigating complaints of violations of this chapter. The procedures may include the development of electronic forms, available over the Internet, by which a person may file a complaint with the Attorney General alleging a violation of this chapter.

**2. Civil action; injunction and damages.** Notwithstanding Title 5, section 213, a person about whom information is unlawfully collected or who is the object of predatory marketing in violation of this chapter may bring an action in an appropriate state court for either or both of the following:

A. An injunction to stop the unlawful collection or predatory marketing; and

B. Recovery of actual damages from each violation or up to \$250 in damages for each violation, whichever is greater.

If the court finds there has been a violation of this chapter, the court shall award the petitioner reasonable attorney's fees and costs incurred in connection with the action.

If the court finds that the defendant willfully or knowingly violated this chapter, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph B.

**3. Civil violation; penalty.** Notwithstanding the penalty provisions of Title 5, section 209, each violation of this chapter constitutes a civil violation for which a fine may be assessed of:

A. No less than \$10,000 and no more than \$20,000 for a first violation; and

B. No less than \$20,000 for a 2nd or subsequent violation.

**4. Application of federal law.** If the Attorney General finds evidence of a violation of the federal Children's Online Privacy Protection Act of 1998, 15 United States Code, Sections 6501 to 6506 (2007), the Attorney General may bring a civil action pursuant to 15 United States Code, Section 6504 (2007).

See title page for effective date.

**CHAPTER 231**

**S.P. 428 - L.D. 1156**

**An Act To Amend the Laws  
Governing the Recycling of  
Televisions**

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

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

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

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

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

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

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

A. Each municipality that chooses to participate in the state collection and recycling system shall ensure that computer monitors and televisions generated as waste from households 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.

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

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

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

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

(1) Ninety days after the department adopts rules as provided for in this subparagraph, ~~each computer monitor manufacturer and each television manufacturer~~ is individually responsible for handling and recycling all computer monitors ~~and televisions~~ 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 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 television manufacturer is responsible for a pro rata share of orphan waste televisions~~ generated as waste by households in this State and received at consolidation facilities in this State. The manufacturers shall pay the reasonable operational costs of the consolidator attributable to the handling of all computer monitors and televisions generated as waste

by households in this State, the transportation costs from the consolidation facility to a licensed recycling and dismantling facility and the costs of recycling. 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 deem that market share de minimus. A television manufacturer whose market share is deemed 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 deemed 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 manufacturers shall ensure that consolidation facilities are geographically located to conveniently serve all areas of the State as determined by the department. By November 1, 2005, the department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A that identify the criteria that consolidators must use to determine reasonable operational costs attributable to the handling of computer monitors and televisions.

(2) Each computer monitor manufacturer and television 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.

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

share responsibility for the recycling of televisions for the subsequent calendar year.

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

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

(1) ~~By March 1, 2005, a~~ A manufacturer of computer monitors and a manufacturer of televisions shall develop and submit to the department a plan for the collection and recycling or reuse of computer monitors and televisions ~~produced by the manufacturer and~~ generated as waste by households in this State. ~~This~~ For manufacturers of computer monitors, this plan must be based on the manufacturer's taking responsibility for its products upon receipt at consolidation facilities in the State. For manufacturers of televisions, this plan must be based on the manufacturer's taking financial responsibility for the allowable costs of its proportional market share of televisions as determined by the department in accordance with subsection 5, paragraph D, subparagraph (1). Following submission of the original plan, manufacturers may revise their plans at any time as they may consider appropriate in response to changing circumstances or needs only if these revisions conform to the provisions of this section and rules adopted pursuant to this section and are submitted to the department in a timely fashion.

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

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

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

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

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

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

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

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

(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~~ or televisions at the end of life of those computer monitors and televisions; and

(i) Annual sales data on the number and type of computer monitors ~~and~~ or televisions 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 division confidential as provided under section 1310-B.

(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.

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

**7. Enforcement; cost recovery.** The department must enforce this section in accordance with the provisions of sections 347-A and 349. If a manufacturer fails to pay for the costs allocated to it pursuant to sec-

tion 1610, subsection 5, paragraph D, subparagraph (1), including, for a computer monitor manufacturer, its pro rata share of costs attributable to orphan waste, the department may pay a consolidator its legitimate costs from the Maine Solid Waste Management Fund established in section 2201 and seek cost recovery from the nonpaying manufacturer. Any nonpaying manufacturer is liable to the State for costs incurred by the State in an amount up to 3 times the amount incurred as a result of such failure to comply.

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

**Sec. 6. Cost review and report.** The Department of Environmental Protection shall conduct a review of the costs of collection, transportation, handling and recycling of the State's household electronic waste recycling program established in the Maine Revised Statutes, Title 38, section 1610 and of manufacturer responsibility programs implemented in other states for the purpose of identifying opportunities to reduce costs in the State's program. The department shall include the results of the review, along with any recommendations for changes to Title 38, section 1610 and draft legislation to implement the recommended changes, in the report required to be submitted by January 15, 2010 pursuant to Title 38, section 1610, subsection 8.

The department shall convene a working group to assist in the review. The working group must include representation from at least one manufacturer from each product category covered by the electronic waste law, an environmental advocacy organization, a recycling or consolidation business, a statewide municipal association and other interested parties that may have a role in the collection and recycling program. The Joint Standing Committee on Natural Resources is authorized to submit legislation related to the report submitted pursuant to this section to the Second Regular Session of the 124th Legislature.

**Sec. 7. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 38, section 1610 take effect January 1, 2010.

See title page for effective date, unless otherwise indicated.

**CHAPTER 232  
H.P. 692 - L.D. 1004**

**An Act Relating to  
Self-insurance**

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

**Sec. 1. 24-A MRSA §601, sub-§16**, as amended by PL 2003, c. 203, §1, is further amended to read:

**16. Self-insurance authorization.** Fees applicable to each self-insurer, individual or group, seeking authorization or authorized to operate a workers' compensation self-insurance plan, and each self-insurance reinsurance account and each protected cell of a self-insurance reinsurance account, may not exceed:

A. For filing application for initial authorization, including all documents submitted as part of the application, \$1,000;

A-1. For filing application for authority to self-insure under Title 39-A, section 403, subsection 16, including all documents submitted as part of the application, \$500;

B. ~~Authorization~~ For authorization and each annual continuation, \$300; and

C. ~~Filing~~ For filing a yearly report of a self-insurer, \$100.

If a self-insurer terminates the plan or otherwise does not continue to self-insure, the fee applicable to filing of yearly reports must apply to that period in which the making of these reports is mandated.

**Sec. 2. 39-A MRSA §403, sub-§4-A**, as amended by PL 2003, c. 671, Pt. A, §§11 and 12, is further amended to read:

**4-A. Group self-insurance reinsurance account.** As an alternative to obtaining a reinsurance contract providing coverage against losses arising out of one occurrence, ~~a an individual or group self-insurer authorized under this section~~ may, with the approval of the Superintendent of Insurance, participate in a group self-insurance reinsurance account, referred to in this subsection as "an account," as provided in this subsection. A group self-insurer authorized under the laws of another state may participate in an account through a protected cell arrangement as provided in paragraph L. More than one account may be established pursuant to this subsection. An account established pursuant to this subsection may be established as either an independent private entity or an instrumentality of the State, but the debts and liabilities of an account established as an instrumentality of the State are not debts and liabilities of the State. An account established as an instrumentality of the State within 24 months of its formation, with the approval of