

House Bill 2626

Sponsored by Representatives DINGFELDER, BRUUN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes statewide system administered by Department of Environmental Quality for collection, transportation and recycling of certain electronic devices. Requires manufacturers of covered electronic devices to register for participation in manufacturer program or contractor program. Requires manufacturer or group of manufacturers to provide collection sites. Directs department to provide consumer information explaining system for recycling covered electronic devices. Requires retailers to display and provide consumers with information on system for recycling covered electronic devices.

Prohibits charging of fee for collection of covered electronic devices, with exception for collectors who provide premium service.

Authorizes Environmental Quality Commission to adopt rules to implement system for recycling covered electronic devices.

Imposes civil penalty for disposal of, or knowingly accepting for disposal, covered electronic devices at solid waste disposal site. Imposes civil penalties for other violations of provisions related to collection and recycling of electronic devices.

A BILL FOR AN ACT

1
2 Relating to recycling of electronic devices; creating new provisions; and amending ORS 459.247 and
3 459.995.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. The Legislative Assembly finds that:

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6 **(1) It is necessary to encourage the design of electronic devices that are more resource-**
7 **efficient, more recyclable and less environmentally toxic;**

8 **(2) The development and availability of a statewide system that conveniently serves both**
9 **urban and rural areas of Oregon for the collection and recycling of electronic devices at the**
10 **end of their useful lives is in the best interest of the state; and**

11 **(3) A statewide collection and recycling system should be financed by the manufacturers**
12 **of those electronic devices.**

DEFINITIONS

SECTION 2. As used in sections 2 to 11 of this 2007 Act:

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16 **(1) "Brand" means a manufacturer's name, a brand name or a brand label or all man-**
17 **ufacturers' names, brand names and brand labels for which a manufacturer has responsibil-**
18 **ity.**

19
20 **(2) "Collector" means an entity that collects covered electronic devices for the purpose**
21 **of reuse or recycling and that meets standards or contract requirements set forth by the**
22 **Department of Environmental Quality.**

23 **(3) "Contractor program" means a statewide program for collecting, transporting and**
24 **recycling covered electronic devices that is provided by the department for manufacturers**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 who pay a recycling fee to the department for the purposes of sections 2 to 11 of this 2007
2 Act.

3 (4)(a) "Covered electronic device" means:

4 (A) A computer monitor of any type having a viewable area greater than four inches
5 measured diagonally;

6 (B) A desktop computer or portable computer; or

7 (C) A television of any type having a viewable area greater than four inches when
8 measured diagonally.

9 (b) "Covered electronic device" does not include:

10 (A) Any part of a motor vehicle;

11 (B) Any part of a larger piece of equipment designed and intended for use in an indus-
12 trial, commercial or medical setting, such as diagnostic, monitoring or control equipment;
13 or

14 (C) Telephones or personal digital assistants of any type unless the telephone or personal
15 digital assistant contains a viewable area greater than four inches measured diagonally.

16 (5) "Manufacturer" means a person that, irrespective of the selling technique used, in-
17 cluding by means of remote sale:

18 (a) Produces covered electronic devices under its own brand for sale in this state;

19 (b) Sells in this state covered electronic devices produced by other suppliers under its
20 own brand;

21 (c) Assembles covered electronic devices, with parts produced by others, for sale in this
22 state under the assembler's brand;

23 (d) Imports or exports covered electronic devices to the United States for sale in this
24 state, except that if a company from which an importer purchases the covered electronic
25 devices has a presence or assets in the United States, that company shall be deemed to be
26 the manufacturer; or

27 (e) Manufactures or supplies covered electronic devices to any person within a distrib-
28 ution network that includes wholesalers or retailers in this state, for the sale in this state
29 of those covered electronic devices through that distribution network.

30 (6) "Manufacturer program" means a statewide program for collecting, transporting and
31 recycling covered electronic devices that is provided by a single manufacturer, or group of
32 manufacturers, for the purposes of sections 2 to 11 of this 2007 Act.

33 (7) "Obligation" means the quantity of covered electronic devices, by weight, that an in-
34 dividual manufacturer is required to recycle in a year, calculated by adding the manufac-
35 turer's annual return share by weight to the weight of a percentage of orphan product.

36 (8) "Orphan product" means a covered electronic device whose manufacturer cannot be
37 identified or whose manufacturer is no longer in business and has no successor in interest.

38 (9) "Portable computer" means any of the following that has a viewable area greater than
39 four inches measured diagonally and that can be carried as one unit by an individual:

40 (a) A laptop computer;

41 (b) A notebook computer;

42 (c) A notepad computer; or

43 (d) Any similar electronic device.

44 (10) "Premium service" means services such as at-location system upgrade services and
45 at-home pickup services, including curbside pickup service.

1 (11)(a) "Recycling" means:

2 (A) Separating, processing, transforming or remanufacturing covered electronic devices,
3 components and by-products into usable or marketable raw materials or products; or

4 (B) Smelting materials from covered electronic devices to recover metals for reuse in
5 conformance with applicable laws and rules.

6 (b) "Recycling" does not include:

7 (A) Landfill disposal or incineration uses; or

8 (B) Energy recovery or energy generation by means of combusting covered electronic
9 devices, components and by-products with or without other waste.

10 (12) "Retailer" means a person that owns or operates a business that sells covered elec-
11 tronic devices to consumers.

12 (13) "Return share" means the percentage of covered electronic devices that an individual
13 manufacturer is responsible for collecting, transporting and recycling.

14 (14) "Return share by weight" means the total weight of covered electronic devices that
15 an individual manufacturer is responsible for collecting, transporting and recycling.

16 (15) "Sell" or "sale" means:

17 (a) Any transfer of title for consideration in this state that is not a lease; or

18 (b) Any transfer of title for consideration through remote sales conducted through sales
19 outlets, catalogs or the Internet, or any similar electronic means, that is not a lease.

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21 **MANUFACTURERS**

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23 **SECTION 3.** A manufacturer of covered electronic devices sold in this state shall label
24 each covered electronic device with the manufacturer's brand. The label shall be perma-
25 nently affixed and readily visible.

26 **SECTION 4.** (1) Before January 1 of each year, a manufacturer of covered electronic de-
27 vices sold in this state shall register with the Department of Environmental Quality, for a
28 period to cover the upcoming calendar year, on a form provided by the department. The
29 registration shall include:

30 (a) A list all of the brands being offered for sale in this state by the manufacturer.

31 (b) A statement of whether the manufacturer will be implementing a manufacturer pro-
32 gram under section 5 of this 2007 Act or utilizing the contractor program under section 6
33 of this 2007 Act for recycling covered electronic devices.

34 (c) Any other information required by the department to implement sections 2 to 11 of
35 this 2007 Act.

36 (2)(a) Not later than July 1 of each year, a manufacturer of covered electronic devices
37 sold in this state shall pay an annual registration fee to the department.

38 (b) For calendar years 2008 to 2011, the manufacturer registration fee shall be:

39 (A) \$_____ for manufacturers selling more than _____ percent of the total number
40 of units of covered electronic devices sold in this state the previous calendar year.

41 (B) \$_____ for manufacturers selling at least _____ percent but not more than
42 _____ percent of the total number of units of covered electronic devices sold in this state
43 the previous calendar year.

44 (C) \$_____ for manufacturers selling less than _____ percent of the total number of
45 units of covered electronic devices sold in this state the previous calendar year.

1 (c) For calendar years 2012 and beyond, the Environmental Quality Commission may
 2 modify the registration fees collected by the department under this section so that the total
 3 of registration fees collected approximately matches the department's costs, excluding costs
 4 incurred under section 10 (6) of this 2007 Act, of implementing sections 2 to 11 of this 2007
 5 Act.

6 (3) The department shall determine a manufacturer's registration fee category for pur-
 7 poses of subsection (2) of this section using data from national market research, prorated
 8 for Oregon and based on statewide population.

9 **SECTION 5.** (1) A manufacturer choosing to implement a manufacturer program shall
 10 submit a plan at the time of payment of the annual registration fee required under section
 11 4 of this 2007 Act. The plan must describe how the manufacturer will finance, manage and
 12 conduct a statewide program that uses environmentally sound management practices to
 13 collect, transport and recycle covered electronic devices.

14 (2) The Department of Environmental Quality shall accept or reject a plan submitted by
 15 a manufacturer under this section.

16 (3) A manufacturer choosing to implement a manufacturer program shall:

17 (a) Meet or exceed the requirements for collection sites described in section 8 of this 2007
 18 Act.

19 (b) Implement the plan required under this section.

20 (c) Advertise and promote collection opportunities statewide and on a regular basis.

21 (4) A group of manufacturers may choose to implement a manufacturer program as one
 22 entity, but in doing so shall meet the sum of their individual obligations under sections 2 to
 23 11 of this 2007 Act.

24 (5) A manufacturer with _____ percent or less return share is required to choose the
 25 contractor program under section 6 of this 2007 Act.

26 **SECTION 5a.** Section 5 of this 2007 Act is amended to read:

27 **Sec. 5.** (1) A manufacturer choosing to implement a manufacturer program shall submit a plan
 28 at the time of payment of the annual registration fee required under section 4 of this 2007 Act. The
 29 plan must describe how the manufacturer will finance, manage and conduct a statewide program
 30 that uses environmentally sound management practices to collect, transport and recycle covered
 31 electronic devices.

32 (2) The Department of Environmental Quality shall accept or reject a plan submitted by a
 33 manufacturer under this section.

34 (3) A manufacturer choosing to implement a manufacturer program shall:

35 (a) Meet or exceed the requirements for collection sites described in section 8 of this 2007 Act.

36 (b) Implement the plan required under this section.

37 (c) Advertise and promote collection opportunities statewide and on a regular basis.

38 (d) Conduct a statistically significant sampling of the manufacturer's covered electronic
 39 devices collected and recycled during the previous calendar year. The manufacturer shall
 40 report the results of the sampling to the department no later than March 1 of each year.

41 The report must include:

42 (A) A list of the manufacturer's brands;

43 (B) The weight of covered electronic devices identified with each brand;

44 (C) The weight of covered electronic devices that lack the manufacturer's brand; and

45 (D) Any other information the department requires to determine the manufacturer's

1 **annual return share and designated obligation.**

2 (4) A group of manufacturers may choose to implement a manufacturer program as one entity,
3 but in doing so shall meet the sum of their individual obligations under sections 2 to 11 of this 2007
4 Act.

5 (5) By July 1 of each year, a manufacturer that does not meet its obligation for the
6 previous calendar year shall pay the department for the amount not achieved at a rate de-
7 termined by the department to be equivalent to the amount the manufacturer would have
8 paid to be part of the contractor program under section 6 of this 2007 Act.

9 [(5)] (6) A manufacturer with _____ percent or less return share is required to choose the
10 contractor program under section 6 of this 2007 Act.

11 **SECTION 6.** (1) By July 1 of each year, a manufacturer who is part of the contractor
12 program shall pay a recycling fee to the Department of Environmental Quality in an amount
13 determined by the department to cover the costs of collecting, transporting and recycling the
14 manufacturer's annual return share of covered electronic devices.

15 (2) The department shall base the recycling fee required under this section on the cost
16 of implementing the contractor program and the manufacturer's annual return share of
17 covered electronic devices. The department shall:

18 (a) Determine the manufacturer's annual return share for calendar years 2008 and 2009,
19 utilizing data compiled by counties and from other states; and

20 (b) Determine the manufacturer's annual return share for calendar years 2010 and
21 thereafter utilizing data reported to the department by manufacturers.

22 (3) For calendar years 2008 through 2011, the recycling fee may not exceed \$_____ per
23 pound.

24 **SECTION 7.** (1) Except as authorized in subsection (2) of this section, a manufacturer
25 program, the contractor program or a collector participating in a manufacturer program or
26 a contractor program may not charge a fee to consumers for the collection, transportation
27 or recycling of covered electronic devices.

28 (2) A collector who provides a premium service to a consumer may charge the consumer
29 for the additional cost of providing the premium service.

30 **SECTION 8.** (1) A manufacturer program shall provide convenient and available collection
31 sites for covered electronic devices in both rural and urban areas. A manufacturer program
32 shall provide at least one collection site in every county in this state. A program may provide
33 a collection site jointly with another manufacturer program.

34 (2) A manufacturer program shall provide at least one collection site for any city with a
35 population of at least 10,000. A collection site for a county may be the same as a collection
36 site for a city in the county.

37 (3) Collection sites may include electronics recyclers, repair shops, recyclers of other
38 commodities, reuse organizations, charities or thrifts, retailers, disposal sites, recycling
39 sites, transfer stations or other suitable locations.

40 (4)(a) Collection sites shall be staffed and open to the public at a frequency adequate to
41 meet the needs of the area being served, but at least one day each week between the hours
42 of 8:00 a.m. and 5:00 p.m.

43 (b) Collection sites may accept up to _____ covered electronic devices per person per
44 day.

45

RETAILERS

SECTION 9. (1) A retailer may not sell or offer for sale a covered electronic device from a manufacturer who is not on the list posted by the Department of Environmental Quality pursuant to section 10 of this 2007 Act.

(2) A retailer shall post, in a location visible to the consumer, information provided by the department and the manufacturer that describes where and how a consumer can recycle covered electronic devices.

(3) A retailer shall provide in printed form the information described in subsection (2) of this section to the consumer at the time of the sale of a covered electronic device.

DEPARTMENT OF ENVIRONMENTAL QUALITY AND ENVIRONMENTAL QUALITY COMMISSION

SECTION 10. The Department of Environmental Quality shall:

(1) Maintain and make available on its Internet website a list of manufacturers who have registered with the department and are in compliance with sections 2 to 11 of this 2007 Act.

(2) Determine the registration fee to be paid by each manufacturer under section 4 of this 2007 Act.

(3) Review and approve plans submitted annually by manufacturers choosing to implement a manufacturer program for recycling covered electronic devices.

(4) Determine the return share and return share by weight for each manufacturer who sells covered electronic devices in Oregon. The return share shall include a proportionate estimated share of orphan product and historic waste.

(5) Provide statewide information about opportunities for collection and recycling of covered electronic devices.

(6) Establish a contractor program for the collection of up to _____ covered electronic devices per person per day and the recycling of those covered electronic devices. The contractor program shall, to the extent practicable, use existing local collection and recycling infrastructure that follows environmentally sound management practices.

(7) Determine the recycling fee to be paid by each manufacturer that participates in the contractor program under section 6 of this 2007 Act.

(8) In consultation with the Environmental Quality Commission, report biennially to the Legislative Assembly on the operation of the statewide system for collection, transportation and recycling of covered electronic devices.

SECTION 11. The Environmental Quality Commission may adopt rules necessary to implement a convenient and comprehensive statewide system for the collection, transportation and recycling of covered electronic devices.

SECTION 12. (1) The Department of Environmental Quality shall evaluate any federal law that establishes a national program for the collection and recycling of electronic devices.

(2) If the department determines that the federal law substantially meets or exceeds the requirements and intent of sections 2 to 11 of this 2007 Act, the department shall include information on the federal law in the next biennial report to the Legislative Assembly pursuant to section 10 of this 2007 Act.

PENALTIES

SECTION 13. ORS 459.247 is amended to read:

459.247. (1) No person shall dispose of and no disposal site operator shall knowingly accept for disposal the following types of solid waste at a solid waste disposal site:

- (a) Discarded or abandoned vehicles;
- (b) Discarded large home or industrial appliances;
- (c) Used oil;
- (d) Tires; [or]
- (e) Lead-acid batteries[.]; **or**

(f) Covered electronic devices.

(2) As used in this section[.]:

(a) "Covered electronic device" has the meaning given that term in section 2 of this 2007 Act; and

(b) "Used oil" has the meaning given that term in ORS 459A.555.

(3) Nothing in this section shall prohibit a disposal site operator from accepting and storing, for purposes of recycling or recovering, any of the types of solid waste listed in subsection (1) of this section.

(4) The Environmental Quality Commission may postpone the prohibition under subsection (1)(f) of this section in any area of this state where the commission determines there is an inadequate system for the collection, transportation and recycling of covered electronic devices.

SECTION 14. ORS 459.995 is amended to read:

459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty provided by law:

(a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790, 459A.005 to 459A.620, 459A.675 to 459A.685 or 646.845 **or sections 3 to 9 of this 2007 Act**, or any rule or order of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal, storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining to the sale of novelty items that contain encapsulated liquid mercury, shall incur a civil penalty not to exceed \$10,000 a day for each day of the violation.

(b) Any person who violates the provisions of ORS 459.420 to 459.426 shall incur a civil penalty not to exceed \$500 for each violation. Each battery that is disposed of improperly shall be a separate violation. Each day an establishment fails to post the notice required under ORS 459.426 shall be a separate violation.

(c) For each day a city, county or metropolitan service district fails to provide the opportunity to recycle as required under ORS 459A.005, the city, county or metropolitan service district shall incur a civil penalty not to exceed \$500 for each violation.

(d) Any person who violates the provisions of ORS 459.247 (1)(f) shall incur a civil penalty not to exceed \$500 for each violation. Each covered electronic device that is disposed of improperly shall be a separate violation.

(2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665 or any rule adopted under ORS 459A.650 to 459A.665 shall incur a civil penalty not to exceed \$1,000 per day for each day of the violation. A violation of ORS 459A.650 to 459A.665 shall not be subject

1 to additional penalties under subsection (1) of this section.

2 (3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the
3 manner provided by ORS 468.135.

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5 **MISCELLANEOUS**

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7 **SECTION 15. The unit captions used in this 2007 Act are provided only for the conven-**
8 **ience of the reader and do not become part of the statutory law of this state or express any**
9 **legislative intent in the enactment of this 2007 Act.**

10 **SECTION 16. (1) Section 9 (1) of this 2007 Act applies to covered electronic devices sold**
11 **by a retailer on or after January 1, 2009.**

12 **(2) The amendments to ORS 459.995 by section 14 of this 2007 Act apply to violations of**
13 **section 9 (1) of this 2007 Act occurring on or after January 1, 2009.**

14 **SECTION 17. The amendments to section 5 of this 2007 Act by section 5a of this 2007 Act**
15 **become operative on January 1, 2010.**